Senate Budget and Fiscal Review

Subcommittee No. 4 2006 Agendas

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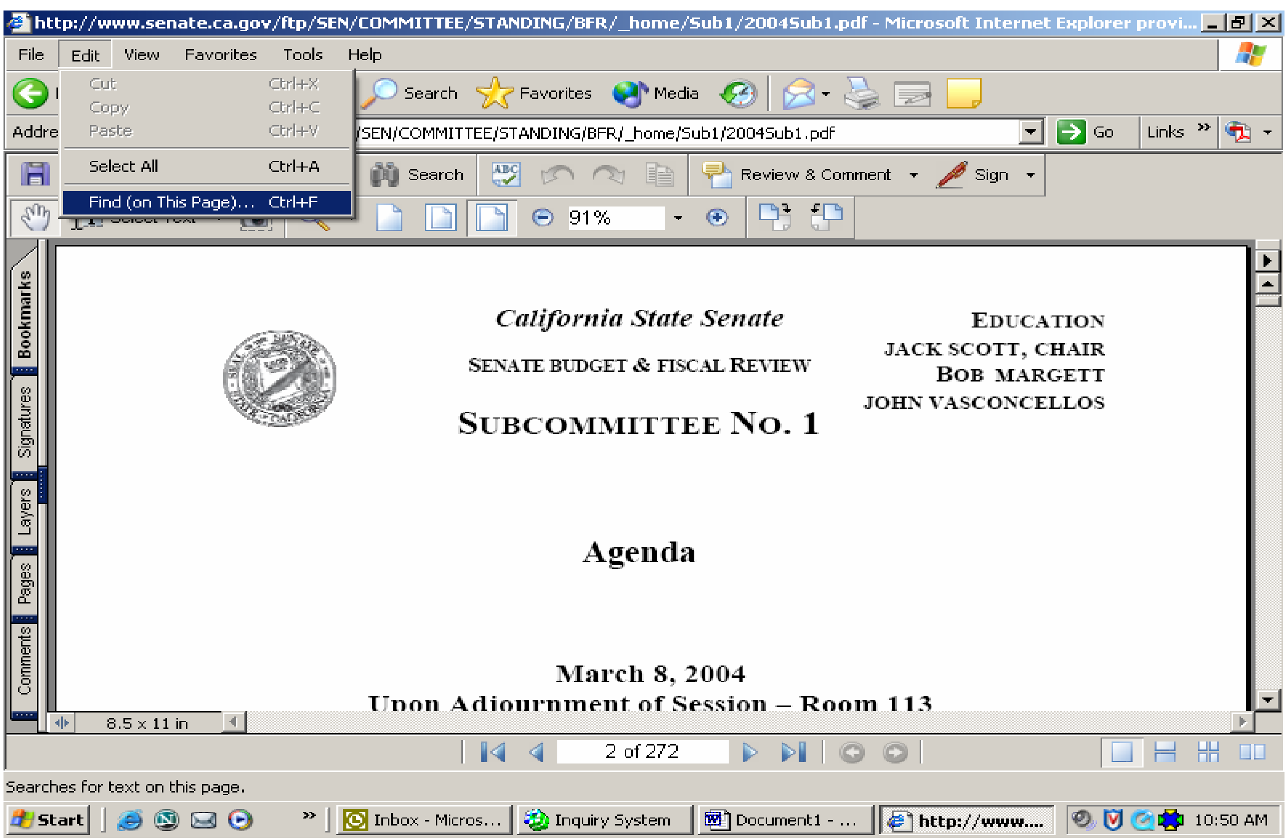

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

The Federal REAL ID Act and Implications for California

Thursday, February 23, 2006
12:00 noon
Room 112

Consultant, Brian Annis

Overview of REAL ID

Kendra Breiland, Fiscal & Policy Analyst, Legislative Analyst's Office

Administration Response to REAL ID

Curt Augustine, Deputy Secretary, Business, Transportation & Housing Agency
Bill Cather, Legislative Director, Department of Motor Vehicles
Gary Winuk, Chief Deputy Director, State Office of Homeland Security

Public Comment

Attachments:

Staff Overview of the REAL ID Act
HR 1268 – Division B: The REAL ID Act of 2005
Department of Motor Vehicles initial cost estimates for REAL ID

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Staff Overview of REAL ID

The federal REAL ID Act (the Act) was approved by the United States Congress and signed into law by President Bush on May 11, 2005. The Act has significant workload and cost implications for the Department of Motor Vehicles (DMV). Additionally, the Act requires 24 million licensed drivers and identification card holders in California to return to DMV offices to establish identity and obtain compliant cards. Provisions of the Act must be implemented by May 11, 2008; however, federal regulations concerning implementation of the Act are pending.

Major Provisions:

- **Importance of obtaining a compliant license.** After May 2008, a Federal agency may not accept, for an *official purpose*, a driver's license issued by a State to any person unless the State is meeting the requirements of the Act. *Official purpose* is defined: "includes but is not limited to accessing federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine."
- **Issuance standards.** States cannot issue compliant licenses unless individuals establish identity and "lawful status" in the United States through producing multiple documents, as specified, such as a birth certificate and visa/asylum paperwork (as applicable).
- **Digital imaging.** The DMV must capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.
- **Verification of identity documents.** The DMV is required to verify the validity of any identity documents with the issuing agency.
- **License features.** Among other requirements, the new cards must list a person's address of principle residence and contain a "common machine-readable technology."
- **Data sharing with other States.** The DMV must provide all other States with electronic access to the DMV database of license-holder information. The DMV must refuse to issue a license to a person holding a license or card issued by another state without confirmation that the person has terminated the driver's license.
- **Physical Security.** The DMV must ensure the physical security of locations where licenses and cards are produced and where the document materials are stored.
- **Security clearances.** The DMV must subject persons authorized to manufacture or produce licenses to appropriate security clearance requirements.
- **Training.** The DMV must train employees to recognize fraudulent documents.
- **Distinguishing markings for non-compliant licenses**. If the DMV issues licenses that do not comply with the provisions of the Act, these cards must have a unique design to distinguish them from compliant cards.
- **Funding.** No funding is included in the Act itself for implementation, however, $40 million was appropriated in the 2006 federal fiscal year for grants to states (DMV indicates California is unlikely to receive any of this funding).
- **Extensions.** The Secretary of Homeland Security may grant, to a state, an extension of time to implement the Act if the state provides adequate justification for noncompliance.

One Hundred Ninth Congress
of the
United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourth day of January, two thousand and five

An Act

Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).";

(2) in subsection (b)(9), by adding at the end the following: "Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact."; and

(3) in subsection (g), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this division and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this division.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

TITLE II—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term "identification card" means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) OFFICIAL PURPOSE.—The term "official purpose" includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(5) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking "false authentication features" and inserting "false or actual authentication features".

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term "false" has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 204. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

SEC. 205. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 206. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 207. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION

SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this division, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment

RESPONSE TO QUESTION NUMBER FOUR

4. Any cost estimates that have been developed by the DMV or BT&H regarding implementation of the Act. Please include all underlying information that was used to develop cost estimates.

CALIFORNIA AND THE REAL ID ACT
HIGH LEVEL COSTING

The High Level Costing reflected on the following table presents the best cost product to date given what is known at this time. Exhaustive meetings in concert with meticulous study of available material have resulted in the generation of the numbers included in the table.

However, this should not be construed as being a comprehensive presentation of what the total costs will be. This is because meetings are continuing at the federal level to solidify the requirements of the Real ID Act. Many issues are unresolved that could have significant cost ramifications.

The High Level Costing table is actually composed of three tables. Each of which may change as discussed above. They are:

- Expenses that will be incurred based on known information and best estimates for a total cost of $196.9 million,
- Expenses that will be incurred but actual expenditures are unknown for a total cost of $77.7 million to $196.6 million – these represent costs that will be incurred as payments to other entities but for which the unit costs are currently unknown or indeterminable, and
- Dependent on Department of Homeland Security definition of "pending applications" for a total cost of $107.4 million – these represent costs that could change depending on the determination of the definition.

The aggregate sum of the above tables ranges from $274.6 million to $500.9 million over a six-year period.

Major Assumptions for Real I.D. Act
Cost Estimates

Implementation Date: May 11, 2008

- Requirements apply to all driver license and identification cards issued on or after May 11, 2008. The state has a five-year period in which to enroll current card holders (until 2013).
- Driver license renewal by mail and over the Internet will have to be suspended for five years beginning May 11, 2008, as a result of the in-person enrollment requirement.
- All new and renewal driver license and identification card applicants must visit a field office in person and bring their original birth certificate and/or legal presence documents, and two documents showing residence address.
- Source documents will have to be digitally captured at the field location; stored and retrievable for 10 years.
- Additional verification requirements and processing time necessary for 6 million driver license and identification card applicants that DMV would normally process in our field offices every year.
- New field office workload and verification requirements for approximately 2.5 million customers (existing renewal by mail/renewal by internet customers that need to be re-enrolled) per year for five years.
- Any additional facilities will be temporary trailers/modular through 2013.
- Name field in the current driver license and identification card system will have to be expanded to 175 characters.
- Assumes that 40% of the cost to replace the telephone system and micrographics camera and digital imaging database system, is driver license/identification card related.

- Additional security features will be added to California driver license and identification cards. Also, assumes a 2D barcode on driver license/identification cards. Costs for CHP to read the new cards have not been included.

- An additional 1 to 1.4 million phone calls will be generated by the public.

- The Federal Government will develop and have available, a national on-line birth certificate verification system for the state to access for verification. A fee will be charged to the state for the use of the system. Programming costs for connectivity to this system will be required.

California and the Real ID Act
High Level Costing

gh Level Costing Real ID as of February 6, 2006

EXPENSES THAT WILL BE INCURRED BASED ON KNOWN INFORMATION AND BEST ESTIMATES

	FY 2006/2007	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/2012	FY 2012/2013
PY - Total	20 PY	250 PY	500 PY	500 PY	500 PY	500 PY	375 PY
PY Costs	$1,773,880	$15,605,168	$23,908,368	$23,908,368	$23,908,368	$23,908,368	$16,105,784
OE and E		$2,434,786	$4,466,773	$3,649,903	$3,649,903	$3,649,903	$2,432,510
Consultant Services	$500,000	$1,500,000	$100,000	$100,000	$100,000	$100,000	$100,000
Telephone Equipment*	$1,365,000	$1,791,000	$1,381,000				
Digital Imaging Equipment*	$1,608,000	$141,667	$850,000	$850,000	$850,000	$850,000	$850,000
Name Expansion Programming	$995,304						
Criminal Background Checks		$462,093	$100,000	$100,000	$100,000	$100,000	$100,000
Facilities	$1,036,342	$7,569,992	$4,783,992	$4,783,992	$4,783,992	$4,783,992	$4,783,992
Total Estimated Costs	**$7,278,526**	**$29,504,706**	**$35,590,133**	**$33,392,263**	**$33,392,263**	**$33,392,263**	**$24,372,286**
						GRAND TOTAL	**$196,922,440**

California and the Real ID Act
High Level Costing

.XPENSES THAT WILL BE INCURRED BUT ACTUAL EXPENDITURES ARE UNKNOWN

	FY 2006/2007	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/2012	FY 2012/2013
DL/ID Cards		$455,000 - $1,820,000	$2,762,500 - $11,050,000	$2,762,500 - $11,050,000	$2,762,500 - $11,050,000	$2,762,500 - $11,050,000	$2,762,500 - $11,050,000
$0.30 TO $1.30							
National DL/ID Database		$2,450,000 - $4,900,000	$12,200,000 - $24,400,000	$12,200,000 - $24,400,000	$12,200,000 - $24,400,000	$12,200,000 - $24,400,000	$12,200,000 - $24,400,000
$0.5 - $0.10 per month							
Natl Birth Document Database		$2,000,000	$2,125,000	$2,125,000	$2,125,000	$2,125,000	$2,125,000**
$0.25 per record							
Total Estimated Costs	**$0**	**$2,895,000- $8,720,000**	**$14,962,500 - $37,575,000**	**$14,962,500 - $37,575,000**	**$14,962,500 - $37,575,000**	**$14,962,500 - $37,575,000**	**$14,962,500 - $37,575,000**
						GRAND TOTAL	**$77,707,500 - $196,595,000**

EXPENSES THAT MAY OR MAY NOT BE INCURRED

	FY 2006/2007	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/2012	FY 2012/2013
Dependent on DHS Definition of "pending applications"		$6,711,059	$40,266,352	$34,779,730	$8,544,976	$8,544,976	$8,544,976
						GRAND TOTAL	**$107,392,069**

*** Cost of equipment prorated based on DL vs. VR usage**

Note - This chart does not include the costs for the related projects:

IT Modernization - $226,430,000

Portal - $26,500,000

****This assumes that there will be 100% electronic verification at 25 cents. Otherwise additional personnel resources will be necessary for phone verification.**

TOTAL COSTS $274,629,940 - $500,909,509

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, March 8, 2006
10:00 a.m.
Room 113

Consultant: Brian Annis

Business and Housing Departments

Proposed Consent / Vote-only Calendar

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Department Budgets Proposed for Consent / Vote Only

2120 Alcoholic Beverage Control Appeals Board

The Alcoholic Beverage Control Appeals Board consists of three members appointed by the Governor. The Board provides a forum of appeal to persons who are dissatisfied with the Department of Alcoholic Beverage Control's decision to order penalties or issue, deny, condition, transfer, suspend or revoke any alcoholic beverage license. Following the filing of an appeal, and submission of written briefs, the Board hears oral arguments in Northern and Southern California on the appropriateness of the Department's decision. The Board then prepares, publishes, and distributes a formal written opinion. A party seeking review of an Appeals Board decision must file a petition for writ of review with the Court of Appeals.

The Governor proposes total expenditures of $987,000 (no General Fund) and 8.8 positions for the ABC Appeals Board, – an increase of $24,000 from the current year. Board expenditures exceed fee revenue in 2006-07 by about $35,000; however, the ending fund balance is $587,000 and no fee changes are planned. The Administration did not submit any Budget Change Proposals for the ABC Appeals Board.

Staff Recommendation: Approve the Budget.

Vote:

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency is a member of the Governor's Cabinet and oversees 16 departments, including the following:

- Alcoholic Beverage Control
- Corporations
- Housing and Community Development
- California Highway Patrol
- Motor Vehicles
- Financial Institutions
- Real Estate
- Managed Health Care
- Transportation

In addition, the Secretary's Office oversees programs, including the following, which are budgeted directly in the Secretary's Office:

- Infrastructure and Economic Development Bank
- Office of Military & Aerospace Support
- Division of Tourism
- Small Business Loan Guarantee Program
- Film Commission
- Manufacturing Technology Program

The Governor proposes total expenditures of $29.0 million ($15.6 million General Fund) and 59.5 positions for the Office of the Secretary – an increase of $3.3 million ($3.0 million General Fund) and no positions.

Budget Changes proposed for Consent / Vote Only

1. **Film Commission: Film Promotion and Marketing Fund (BCP #L1).** The Administration requests expenditure authority of $10,000 from the Film Promotion and Marketing Fund to promote motion picture and television filming in California. This fund was established with AB 1437 (Chapter 168, Statutes of 2005, Strictland). Fund revenues come from the sale of location library documents, other film-related documents, and any and all public or private sources that support the Film Commission.

   Staff Recommendation: Approve this request – this is a special fund expenditure that is consistent with the intent of the Legislature in enacting AB 1437.

   Vote:

2. **Chrome Plating Program Implementation (BCP #L2).** The Administration requests expenditure authority of $278,000 for state operations and $250,000 for local assistance (all special fund) for the Chrome Plating Pollution Prevention Program, established by AB 721 (Chapter 695, Statutes of 2005, Nunez). AB 721 directed BT&H to establish a loan guarantee program to assist eligible small businesses in purchasing pollution reduction equipment, and directs the Department of Toxic Substances Control to establish a Model Shop Program in Northern California that replicates its existing Chrome Plating Model Shop Pilot Program in Southern California. The Chrome Plating Program is funded by a transfer of $2.8 million from the defunct Hazardous Waste Reduction Loan Program. Additional Program funding of approximately $1.7 million is anticipated in 2005-06 through 2010-11 as loans made under the Hazardous Waste Reduction Loan Program are repaid.

   Detail: The BCP requests local assistance funding of $250,000 to establish a local assistance authority in the event there is a default. A total of $278,000 is requested for state operations which would be spent as follows:

   - $30,000 for BT&H staff – AB 721 limits BT&H administrative costs to 5 percent of money deposited in the fund, and BT&H indicates the request is within that limit. The Department of Finance indicates this workload is being absorbed by existing staff and that a corresponding reduction was made to expenditures from the Small Business Expansion Fund.
   - $162,500 to pay the 11 Financial Development Corporations (FDCs) for their Administration of the loan guarantees - this assumes 50 loan guarantees will be completed in 2006-07 and the FDCs will receive $3,250 per guarantee (BT&H indicates this is the same amount that is provided for other existing loan guarantees).
   - $85,000 for payment to the Department of Toxic Substances Control to establish the Northern California Model Shop Program.

   Staff Recommendation: Approve this request – this is a special fund expenditure that is consistent with the fiscal estimates and programmatic direction of the Legislature when AB 721 was enacted last year.

   Vote:

Issues for Discussion / Vote

1. **Loan Repayment (Informational Issue).** The table below summarizes, for all the departments on today's agenda, the status of outstanding special fund loans to the General Fund. Of the $120.6 million in outstanding loans, the Administration proposes to repay $40.6 million in 2006-07. On a statewide basis, the Department of Finance reported on February 1, 2006, that outstanding loans to the General Fund total $1.3 billion. This figure excludes Proposition 98 (education) and Proposition 42 (transportation) General Fund obligations.

Business, Transportation, and Housing Agency loans to the General Fund (excluding transportation – in millions)

	Currently Outstanding	Proposed Repayment in 2006-07
Small Business Loan Guarantee Program	$10.7	$10.7
Department of Financial Institutions	$2.7	$0
Department of Corporations	$18.5	$0
Department of Housing and Community Development	$74.8	$29.9
Office of Real Estate Appraisers	$3.0	$0
Department of Real Estate	$10.9	$0
TOTAL	**$120.6**	**$40.6**

Detail: Of the outstanding loans in the above table, the Administration proposes 2006-07 loan repayment for the Small Business Loan Guarantee Program and the Department of Housing and Community Development. No budget bill language or trailer bill language is necessary to implement these loan repayments – the Administration can repay the loans with an executive order citing existing budgetary authority. The Department of Housing and Community Development indicates their loan repayment is needed to support programs in 2006-07 and maintain a prudent fund reserve. The Small Business Loan Guarantee Program indicates that the repayment is needed so the Program will have the benefit of interest earnings to support operational costs (the principal amount of the loan is still considered an asset of the Program and available for loan guarantees pursuant to budget bill language in the 2002 Budget Act). Discussions with departments suggest further loan repayments may be needed for 2007-08 for the Department of Corporations and the Department of Housing and Community Development. The Department of Financial Institutions, the Office of Real Estate Appraisers, and the Department of Real Estate appear to have no cash need over the next several years.

Staff Comment: The Subcommittee may want to ask the Administration to explain their prioritization and long-term plan for loan repayment.

Staff Recommendation: Informational – no action necessary.

2. **Film Commission: Augmentation for Operating Expenses (BCP #3).** The Administration requests an ongoing augmentation of $80,000 (General Fund) for ongoing data processing costs related to the On-line Film Permitting System. The Permitting System was approved with the 2004 Budget Act with a one-time General Fund cost of $600,000. The Commission indicates that while they had originally hoped to absorb the ongoing maintenance costs, they now feel a budget augmentation of $80,000 is needed to maintain the system and meet other statutory obligations. Specifically, the BCP notes that outreach efforts, such as location show participation, handouts, and ad placements, are not taking place.

   Background: The Film Commission was transferred to the BT&H Agency when the Technology, Trade and Commerce Agency was eliminated in 2002-03. The Commission staff was cut from 19 to 8 positions and the remaining staff focused on the core workload of issuing film permits. The 2005-06 budget for the Commission is $882,000 (General Fund), and $968,000 ($958,000 General Fund) is requested for 2006-07. In the *Analysis of the 2004-05 Budget Bill* the Legislative Analysis recommended that the Commission use existing statutory authority (Government Code Section 14998.8) to charge fees for its film permitting activities to offset the cost to the General Fund. The Administration opposed new fees, and film permits are currently issued without charge.

   Staff Comment: Given the ongoing General Fund structural deficit and the number of other worthy programs that are not being funded, or not fully funded, the Subcommittee may want to hear testimony from the Agency on the criticality of outreach efforts such as location show participation, handouts, and ad placements. Additionally, the Agency should be prepared to discuss the option of instituting film-permit fees to pay the maintenance cost of the On-line Film Permitting System. About 1,800 permits are granted annually, so a fee in the range of $40 - $50 per permit would cover the cost.

   Staff Recommendation: Deny the request.

   Vote:

3. **Tourism Commission: Funding Augmentation (BCP #2).** The Administration requests a General Fund Augmentation of $2.7 million to increase the State's contribution to the Commission to $10 million. The Administration indicates this augmentation would leverage an additional $4 million in private sector funds, bringing the total marketing budget up to $25 million, of which $10 million would go directly to advertising.

   Staff Comment: Government Code 13995.70 states the following: *(a) Funding for the commission is a cooperative venture. Because of the benefits that accrue to the state and to its residents by virtue of having the travel and tourism industry participate cooperatively with the state for the purpose of effectively marketing travel and tourism to and within the state, it is the intent of the Legislature that the state shall be responsible for appropriating a minimum of seven million three hundred thousand dollars ($7,300,000) each fiscal year for travel and tourism, and the industry shall be responsible for targeting the level of assessments for each fiscal year at the amount determined to be appropriate by the commission and approved by referendum. However, that assessment level shall ultimately reach at least twenty-five million dollars ($25,000,000).*

   While the State zeroed-out support for a number of years, General Fund support was restored in 2005-06 to $7.3 million – the level that matches statutory intent. Industry support through self-assessment is approximately $10.9 million. Statutory language suggests that the State is currently funding at the intended minimum level of $7.3 million, but that industry is providing less than half of its intended minimum level of $25 million.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the Analyst recommends the Legislature reject the proposed augmentation because the industry has not contributed its targeted share and the value of the subsidy is questionable. In addition, the Analyst recommends budget bill language making the state's existing contribution contingent on industry making its targeted contribution of $25 million.

   Staff Recommendation: Deny the requested augmentation, but do not adopt the LAO's budget bill language to make the State funds contingent on the $25 million industry match. While the industry is not currently meeting its full funding obligation, the State was not meeting its funding obligation until 2005-06. The Subcommittee can revisit this issue in future years if industry does not achieve the $25 million funding goal.

   Vote:

2100 Department of Alcoholic Beverage Control

The Department of Alcoholic Beverage Control (ABC) administers the provisions of the Alcoholic Beverage Control Act, which vests in the Department the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the state and, subject to certain laws of the United States, to regulate the importation and exportation of alcoholic beverages into and from the state.

The Governor proposes total expenditures of $51.8 million (no General Fund) and 445 positions, – an increase of $6.4 million and 3 positions from the current year.

Issues for Discussion / Vote

1. **Fund Balance / Past-Year Savings (Informational Issue).** The Alcoholic Beverage Control Fund has a projected balance of $6.8 million at the end of 2006-07 – down from $12.0 million at the end of 2005-06. No loans are outstanding to the General Fund. Total expenditures proposed for 2006-07 are $51.8 million. Savings (an unexpended appropriation) of $2.1 million occurred in 2003-04 and savings of $2.8 million occurred in 2004-05. AB 1298 (Chapter 488, Statutes of 2001, Wesson), increased annual ABC fees and then capped future fee increases, beginning in 2005, to the Consumer Price Index (CPI). The Department indicated that it has not increased fees to the maximum allowable level of the 2005 base plus CPI.

   Staff Comment. The Department should be prepared to discuss the following:
   - How will the ABC adjust revenues and expenditures in the future to keep the Alcoholic Beverage Control Fund solvent?
   - Does the Administration anticipate Finance Letters that would require additional expenditures in 2005-06?

   Staff Recommendation: Informational – no action required.

2. **Office Renovations & Cost Adjustment (BCP #3).** The Department requests a total of $234,000 (special fund) for facilities. Of this amount, $150,000 is one-time to perform renovations in the San Jose State Building and the remainder ($84,000) is ongoing for the rent costs in 2006-07 that exceed the standard price increase already built into the ABC budget. Renovations include new modular workstations as well as changes to doors and walls, which will allow Investigators (who sometimes go undercover) to better avoid being viewed from the public area.

   Staff Comment: Generally, departments are able to absorb minor office renovation costs and rent increases (rent costs beyond the baseline augmentation built into the budget), without needing additional budget authority. The Department had budgetary savings of over $2.0 million in both 2003-04 and 2004-05. ABC suggests savings in 2005-06 may be $150,000 to $672,000, depending on whether a software purchase occurs this year or next.

   Staff Recommendation: Deny the request – if the Department chooses to proceed with the renovation work, it should absorb the cost within the existing budget.

   Vote:

3. **Grant Assistance Program (GAP) Augmentation (BCP #2).** The Department requests an augmentation of $1.7 million (special fund) and 3.0 positions to increase the Department's grants to local law enforcement agencies to $3.0 million. This would double the number of grants awarded from about 20 to about 40. The state operations funding of $248,000 would fund three new Investigator II positions to supervise and consult with the new local law enforcement entities that receive the grants. With the 3 new staff, a total of 12 staff would administer this program. Assembly Bill 428 (Chapter 428, Statutes of 2005, Gordon), found that the GAP program was a successful law enforcement program and that annual funding should be no less than $1.5 million and no more than $3.0 million.

   Staff Comment: AB 428 states legislative intend to fund GAP in the range of $1.5 million to $3.0 million annually. The 2005-06 funding level of 1.5 million is not inconsistent with that intent. Notwithstanding the merits of the GAP, it is unclear that the Alcoholic Beverage Control Fund will have sufficient revenues to continue grants permanently at the $3 million level.

   Staff Recommendation: Deny the request. The ABC indicates it may have to reduce grants below $3.0 million in the future to close the budget shortfall. This issue can be considered again next year if additional revenue materializes.

   Vote:

4. **Overtime Augmentation (BCP #1**). The Department requests an ongoing augmentation of $1.7 million (special fund) to provide additional funding for cash overtime payments. The current overtime budget is $218,300 and the request would increase overtime funding as a percent of salary from 0.87 percent to 6.60 percent.

   Detail: The BCP indicates that the Department is proportionally under-funded for overtime relative to other law enforcement entities, and compensating time off has been used to compensate employees for work beyond the normal day. Additionally, the ABC has received grant funding from the Office of Traffic Safety, the National Highway Traffic Safety Association, and the Office of Juvenile Justice Delinquency Program that has provided about $330,000 annually for overtime costs. If the request is approved, the Department indicates it would be better able to respond to licensing workload fluctuation and achieve its performance goals such as completing person-to-person license applications within 40 days (40.9 days was the average in September) and reducing appointment wait times to a maximum of 5 business days (75 percent of offices achieved this in September).

   Staff Comment: Requested 2006-07 expenditures exceed revenues by about $5.2 million, and the Department indicates it may have to consider an overtime reduction in the future to close the budget shortfall. Notwithstanding the merits of additional overtime funding for enforcement and licensing activities, it is unclear that the Alcoholic Beverage Control Fund will have sufficient revenues to permanently continue overtime at the requested level.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the Analyst recommends the Legislature reject the proposed overtime augmentation because ABC has not provided evidence that additional overtime hours are needed to meet workload demands.

   Staff Recommendation: Deny the request. The ABC indicates it may have to reduce overtime in the future to close the budget shortfall. This issue can be considered again next year if additional revenue materializes.

   Vote:

2150 Department of Financial Institutions

The Department of Financial Institutions (DFI) was established effective July 1, 1997, to regulate depository institutions, including commercial banks, savings associations, credit unions, industrial loan companies, and certain other providers of financial services. In addition, the Department licenses and regulates issuers of payment instruments, including companies licensed to sell money orders and/or travelers' checks or licensed to engage in the business of transmitting money abroad, and business and industrial development corporations. Programs are supported by assessment of the various industries, license and application fees, and charges for various other services.

The Governor proposes total expenditures of $24.7 million (no General Fund) and 208 positions, - an increase of $1.2 million and 4 positions from the current year. No fee increases are anticipated for DFI, and the Department indicates Credit Union fees are being reduced. The Department has a $2.7 million loan outstanding to the General Fund – no loan repayment is proposed for 2006-07.

Issues for Discussion / Vote

1. **Bank Secrecy Act/Anti-Money Laundering Staffing Augmentation (BCP #1).** The Department requests a total of $408,000 (special fund) in ongoing funding to augment staff by two Senior Financial Institution Examiners and two Financial Institutional Examiners to meet the anticipated increase in hours for the examination and enforcement of the Bank Secrecy Act (BSA) Anti Money Laundering (AML) Control Act, Suspicious Activity Reporting, and the USA Patriot Act. DFI Program 10 (banks) and Program 60 (credit unions) would split this augmentation. DFI indicates there is increased workload as a result of a new BSA/AML *Examiner Manual* introduced on June 30, 2005, by federal banking agencies (agencies of the US Treasury including Financial Crimes Enforcement Network and the Internal Revenue Service).

   Staff Comment: The Department has provided the Committee Staff copies of the new federal BSA/AML Examination Manual and copies of the Memorandum of Understanding between the DFI and the federal agencies. The BCP identified 13 new or expanded activities and the additional audit hours that will result from each.

   Staff Recommendation: Approve the request.

   Vote:

2. **Special Licensee Operating Expense Augmentation (BCP #2).** The Department requests a total of $192,000 (special fund) in ongoing funding for operating expenses for Program 20 (Special Licenses). This Program examines financial institutions that sell payment instruments (money orders), travelers' checks, and transfer money internationally.

   Detail: The Department indicates that $192,000 in Operating Expenses and Equipment (OE&E) funding was shifted to Personal Services (PS) in 2003-04 for unfunded wage and salaries costs. DFI indicates the original intent was to reduce PS costs and shift the funds back to OE&E; however, workload demand has not allowed this. The Department submitted a Section 26.00 Letter in 2004-05 to shift $192,000 from Program 80 (Industrial Banks) to the Special License Program. Additionally, DFI indicates it intends to submit another Section 26.00 Letter for 2005-06 to shift $192,000 split between Program 80 and Program 10 (Banking) to the Special License Program. The Department indicates that continued shifts from other programs would hinder the ability of the Department to be responsive to the examination schedules of the licensees of other programs.

   Staff Comment: The Department didn't indicate any adverse affects to Program 80 or Program 10 from the transfers made in 2004-05 and anticipated for 2005-06. The Financial Institutions Fund had an unexpended appropriation balance of $480,000 in 2003-04 and $544,000 in 2004-05. While the Special Licensee Program may require additional funding, it is not clear that this need cannot be absorbed within the overall DFI budget by shifting existing funds.

   Staff Recommendation: Deny the request.

   Vote:

3. **California Financial Information Privacy Act (SB 1) (Staff Issue).** The 2004 Budget Act included provisional language that required the DFI to report to the Legislature by January 10, 2006, on the Department's implementation of the California Financial Information Privacy Act (as enacted by SB 1, Chapter 241, Statutes of 2003, Speier), the outcome of legal challenges, and the ongoing staffing need. The report suggests that the actual workload has been significantly less than anticipated. However, the Administration requests to keep all the existing SB 1 funding and positions.

   Background: The Act had workload implications for the DFI, the Department of Corporations (Corporations), and the Attorney Generals (AGs) Office. DFI submitted a BCP in 2004 requesting 17.0 positions to implement the Act; Corporations requested 22.0 additional positions, and the AG's Office indicated they would absorb the workload. DFI and Corporations proposed to audit all firms for SB1 compliance during their regular audit visit. The Legislature approved reduced staffing for a complaint-driven process – 6.0 positions were approved for DFI and 10.0 positions were approved for Corporations.

Department of Financial Institutions – SB 1 Actual Workload vs. 2004 Estimates

<table>
<tr><th>Program Workload approved in 2004</th><th>Anticipated annual activity when staffing was approved in 2004</th><th>Actual activity reported by Department January 10, 2006.</th></tr>
<tr><td>Banking Program Workload

3 Examiners</td><td rowspan="2">Enforcement efforts could be significant (5 enforcement actions noted in BCP proposal)</td><td rowspan="2">3 complaints received, two found to not be violations, the third is under investigation. No enforcement actions.</td></tr>
<tr><td>Credit Union Program

1 Examiner</td></tr>
<tr><td>Consumer Services Section

1 Staff Services Analyst</td><td>Respond to 560 letters and 2068 calls.</td><td>Responded to 31 inquires (sum of both letters and phone calls).</td></tr>
<tr><td>Administration

1 Staff Counsel IV</td><td>Review complaints forwarded by Examiners, litigate enforcement actions.</td><td>3 complaints received, two found to not be violations, the third is under investigation, no enforcement actions.</td></tr>
<tr><td>Total approved new staff: 6 positions</td><td></td><td></td></tr>
</table>

Staff Comment: The workload data suggest most of these SB 1 positions should be eliminated. The Committee may wish to consider keeping one Examiner position to perform SB 1 audits on a sample of companies (as part of a regular audit visit).

Staff Recommendation: The Subcommittee should direct staff to work with DFI to develop and cost-out staffing alternatives that would reduce the Department's budget by four to six positions.

Vote:

2180 Department of Corporations

The Department of Corporations (Corporations) administers and enforces State laws regulating securities, franchise investment, lenders, and fiduciaries.

The Governor proposes total expenditures of $31.7 million (no General Fund) and 277 positions, an increase of $1.0 million. No Budget Change Proposals were submitted by the Administration for Corporations. The State Corporations Fund has a projected balance of $259,000 at the end of 2006-07 – down from $4.9 million at the end of 2005-06. An $18.5 million loan is outstanding to the General Fund. The Department indicates it does not anticipate any fee changes in 2006-07; however, a loan repayment from the General Fund will likely be necessary in 2007-08.

Issues for Discussion / Vote:

1. **California Financial Information Privacy Act (Staff Issue).** The 2004 Budget Act included provisional language that required Corporations to report to the Legislature by January 10, 2006, on the Department's implementation of the California Financial Information Privacy Act (enacted by SB 1, Chapter 241, Statutes of 2003, Speier), the outcome of legal challenges, and the ongoing staffing need. The report suggests that the actual workload has been significantly less that anticipated. However, the Administration requests to keep all the existing SB 1 funding and positions.

   Background: The Act had workload implications for the DFI, the Department of Corporations (Corporations), and the Attorney Generals (AGs) Office. Corporations submitted a BCP in 2004 requesting 22.0 additional positions; DFI requested 17.0 positions to implement the Act;, and the AG's Office indicated they would absorb the workload. DFI and Corporations proposed to audit all firms for SB1 compliance during their regular audit visit. The Legislature approved reduced staffing for a complaint-driven process – 6.0 positions were approved for DFI and 10.0 positions were approved for Corporations.

(See chart on next page)

Department of Corporations – SB 1 Actual Workload vs. 2004 Estimates

Program Workload approved in 2004	**Anticipated annual activity when staffing was approved in 2004**	**Actual activity reported by Department January 10, 2006.**
Forms Review/Duty Consultant 1 Counsel	Review a "**high number**" of alternative privacy forms. Respond to legal questions	Reviewed a **"negligible number"** of alternative privacy forms.
Enforcement 3 Counsels 1 Legal Assistant	1 civil action & 8 administrative actions	No civil or administration actions taken
Complaint Review 3 Examiners 1 Office Technician	Respond to "**substantial**" number of complaints	Responded to "**two"** complaints
Call Center 1 Consumer Asst. Tech	Respond to approximately **50,000 calls** annually	Responded to **343 calls**
Total approved new staff: 10 positions		

Staff Comment: The workload data suggest most of these SB 1 positions should be eliminated. The Committee may wish to consider keeping one or two Examiner positions to perform SB 1 audits on a sample of companies (as part of a regular audit visit).

Staff Recommendation: Direct staff to work with Corporations to develop and cost-out staffing alternatives that would reduce the Department's budget by eight to ten positions.

2. **Elimination of Investigator Positions (Staff Issue**). In 2003-04, Corporations eliminated all 14.0 of its Investigator positions as part of the 2003 Budget Act Control Section 4.10 process which required a statewide reduction of 16,000 permanent positions, as specified. Newspaper reports indicate that the cases the Department referred for criminal prosecution declined from 27 in 2002 to none in 2004. Without Investigator positions, this function falls to local law enforcement and the State Attorney General, who received no additional funds to perform this activity. Since the elimination occurred through Control Section 4.10, the Legislature did not consider this reduction through the Budget Subcommittee process, and no public discussion occurred on the affect these reductions would have on consumer protection.

   Recent Legislative Action: Last year, Senator Speier, Chair of Banking, Finance, and Insurance Committee and Assemblymember Ron Calderon, Chair of the Banking and Finance Committee requested that the Joint Legislative Audit Committee approve a Bureau of State Audits study of Corporations activities. The audit was approved, but will not be complete until 2006-07.

   Staff Comment: The *Governor's Budget Summary* indicates the Administration will consider a restoration of the Investigator positions and other appropriate changes after the Bureau of State Audits releases its audit findings in 2006-07.

   Staff Recommendation: Leave issue open and direct staff to work with Corporations to develop and cost-out staffing alternatives that would partially or fully restore the Investigative function to the Department.

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand housing opportunities for all Californians. The Department administers housing finance, economic development, and rehabilitation programs with emphasis on meeting the shelter needs of low-income persons and families, and other special needs groups. It also administers and implements building codes, manages mobilehome registration and titling, and enforces construction standards for mobilehomes.

The Governor proposes $477.5 million ($16.8 million General Fund) in total expenditures and 519 positions for the department – a decrease of $176.4 million (with a General Fund increase of $2.5 million) and an increase of 20 positions. The expenditure reduction reflects the declining balance of Proposition 46 bond funds available for HCD programs.

Issues for Discussion / Vote

1. **Office of Migrant Services Reconstruction Plan (BCP #2).** HCD requests a General Fund augmentation of $3.4 million ($2.4 million one-time) for the Office of Migrant Services (OMS). The augmentation would support the following:
   - $1.1 million to reconstruct a migrant childcare center in Hollister.
   - $1.2 million to reconstruct a migrant childcare center in Watsonville.
   - $1.0 million (ongoing) to address current costs of the ongoing operation subsidy and the annual routine repair costs for all the OMS facilities.

   Background: The Office of Migrant Services operates 25 OMS centers – all of which have childcare centers. These centers provide 2,103 units of seasonal housing to approximately 11,000 farm workers and family members annually. Privately operated labor camps provide some 26,000 units, most often for single workers.

   Staff Comment: HCD indicates that four additional migrant childcare centers will be in need of reconstruction in 2007-08 and 2008-09. The Department intents to submit BCPs in future budgets requesting authority for those projects.

   Staff Recommendation: Approve the request.

   Vote:

2. **Mobilehome Workload Staffing (BCP #6):** The Administration requests ongoing funding of $501,000 (special funds), and 6.0 positions, to be distributed as follows:
   - Two positions for increased license applications – HCD indicates there has been a 116 percent increase in license applicants over the past three years (HCD is required by law to train, test, and license dealers and salespersons of manufactured housing).
   - Two positions to investigate consumer complaints – HCD indicates complaint caseload has risen from 125 cases on July 1, 2004, to 336 cases on July 1, 2005 (HCD is required by law to investigate allegations of consumer fraud and other improprieties by manufactured housing licensees).
   - Two positions for the Office of the Mobilehome Ombudsman – HCD indicates that in 2002, the Office of Ombudsman received 18,727 calls and processed 1,866 complaints; however since then, one position was lost and since the one remaining position has other duties, the phone is only staffed one hour per day.

   Background: Last year, the Legislature approved the Administration's request to permanently augment funding by $1.9 million (special fund) and 14 positions to liquidate the backlog and cover the costs of inspections for the Mobilehome Parks, Special Occupancy Parks, Factory-Built Housing, and the Manufactured Housing Program. The Administration funded these costs with fee increases that were achieved within existing statutory authority. While some fee increases were significant (exceeding 100 percent) the Department indicated the major stakeholders were supportive, as indicated by the support of the following entities:

   1. California Manufactured Housing Institute (representing manufacturers, dealers, and installers)
   2. Western Manufactured Home Association (representing park owners and operators)
   3. Golden State Manufactured-Home Owners League (representing mobile home owners)

   Staff Comment: While last year's budget added staff to address deficiencies in the Mobilehome Program, the problems noted in this BCP were not addressed last year. The existing fee levels (as adjusted last year) are sufficient to fund the cost of this augmentation.

   Staff Recommendation: Approve the request.

   Vote:

3. Emergency Housing Assistance Program (EHAP) – Funding Cut. The Administration proposes an EHAP funding reduction of $864,000 – to $3.1 million (General Fund). The Emergency Housing Assistance Program (EHAP) provides funds for homeless shelter programs through minimum county allocations of $30,000. The Program funds basic homeless shelter operating costs such as rent, utilities, and salaries of core administrative staff. A history of program funding is outlined in the below table.

Funding for Emergency Housing Assistance (in millions)									
	1998-99*	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07**
Funding	$2.0	$2.0	$39.0	$13.3	$5.3	$5.3	$4.0	$4.0	$3.1
* Supported with special funds in 1998-99, General Fund thereafter.									
** Proposed in Governor's Budget									

Staff Comment: The Governor originally proposed EHAP funding of $3.1 million for 2005-06. With the May Revision of the Budget, the Governor proposed an initiative to reduce homelessness and proposed a one-time General Fund transfer of $750,000 to the Predevelopment Loan Fund to jump-start preconstruction work on up to 10 new permanent housing facilities. The Legislature substituted Proposition 63 (the Mental Health Services Act) bond funds for the General Fund and restored EHAP funding to $4.0 million. The Governor sustained the augmentation, but indicated he considered the augmentation one-time to continue shelter beds during a transition period while new beds are developed under his proposal to create permanent housing with supportive services for the chronically homeless.

Homeless programs are primarily funded at the local level. HCD estimates that $3.1 million would serve 4,700 persons per day, while $4.0 million would serve 6,100 persons per day. The Department indicates federal homeless funding is expected to remain relative constant at about $6.7 million in 2006-07.

Staff Comment: The Governor’s sustain message for last year’s augmentation implies that the demand for shelter beds in 2006-07 will be reduced due to an increase in permanent housing opportunities. However, the Department indicated it does not have any data to suggest the demand for shelter beds will fall from 2005-06 to 2006-07.

Staff Recommendation: Reject the funding cut. (Governor’s Budget plus $864,000)

Vote:

4. **Economic Development Areas – Administrative Funding (BCP #5).** The Department proposes trailer bill language to eliminate the January 1, 2007, sunset date for Enterprise Zone application fees, which support HCD's costs of administering the economic development area programs. Absent the fee authority, HCD would need General Fund support of $698,000 to replace the fee revenue (half of this amount would be needed in 2006-07 due to the January 1, 2007, sunset).

   Background: The State currently designates four types of economic development areas intended to attract and retain businesses in economically-challenged communities. Currently, there are 42 Enterprise Zones (EZs), eight Local Agency Military Base Recovery Areas (LAMBRAs), two Manufacturing Enhancement Areas (MEAs), and one Targeted Tax Area (TTA). The HCD is charged with administering the economic development area programs; however, the Franchise Tax Board collects the Corporations Tax and the Personal Income Tax and may audit any company or individuals claiming the credits. The HCD is budgeted six positions and $698,000 to administer the program, with revenue derived from fees, not to exceed $10, for each Enterprise Zone application. Statute does not currently allow for the imposition of fees to cover the State's cost of the LAMBRA, MEA, and TTA programs. Last year, a budget trailer bill (AB 139) extended the fee authority sunset date until January 1, 2007. Businesses are only required to pay the fee if they choose to take advantage of the tax credit.

   HCD indicates 44,721 businesses used EZ tax credits and 2,789 businesses used tax credits in all the other economic development areas in 2003. The Administration estimates that State tax revenue in 2006-07 will be reduced by $350 million due to the tax credits. Additionally, the Franchise Tax Board estimates a total accumulated corporate tax carryover credit of $650 million.

   Staff Comment: The Subcommittee may want to hear testimony from HCD on the following:

   - Fees for LAMBRAs, MEAs, and TTAs – Why does the Administration propose to place fees on EZs, but not the other types of economic zones?
   - Abuse of tax credits – What abuses of tax credits programs has HCD observed by the local governmental entities that administer the programs and by businesses that use the credits?
   - Status of regulatory changes – What changes is HCD contemplating to the economic development zone regulations and how will those regulatory changes address any abuses of the credits?

   Staff Recommendation: Keep issue open. Staff understands that the issue of Enterprise Zone tax credits will also be discussed when the Franchise Tax Board budget is heard on March 9.

2310 Office of Real Estate Appraisers

The Office of Real Estate Appraisers (OREA) administers a program for licensing of real estate appraisers in federally-related loan transactions. All appraisals for federally regulated real estate financing transactions must be conducted by persons licensed in accordance with applicable State standards. OREA also investigates complaints against appraisers made by lenders and consumers. In addition, certain appraisals, because of the size of the real property or complexity involved, must be performed only by a state-licensed appraiser.

The Governor proposes $4.3 million (no General Fund) in total expenditures and 26.3 positions for OREA – an increase of $138,000 and 1.0 position.

Issues for Discussion / Vote

1. **Fund Balance / Past-Year Savings (Staff Issue).** The Real Estate Appraisers Regulation Fund has a projected balance of $15.8 million at the end of 2006-07 – up from $12.5 million at the end of 2005-06. Additionally, a $3.0 million loan is outstanding to the General Fund. Total expenditures proposed for 2006-07 are $4.3 million. Savings (an unexpended appropriation) of $307,000 occurred in 2003-04 and savings of $980,000 occurred in 2004-05.

   Staff Comment: As an information issue, OREA should discuss the following:
   - Is any portion of the Department's revenue fungible to the General Fund or other special funds.
   - Have there been recent fee reductions and are any new reductions contemplated?
   - What is the nature of the recent budgetary savings, and are they anticipated to continue?

   Staff Recommendation: This is an informational item, no action is required.

2. **Restoration of one Property Appraiser/Investigator Position (BCP #1).** The Department requests the restoration of $101,000 (special fund) and one Property Appraiser/Investigator position that was lost due to the hiring freeze and vacant position reductions in 2002-03. Until 2003-04, OREA had six Senior Property Appraiser/Investigators and two Property Appraiser/Investigator positions. Since losing the one Property Appraiser/Investigator position, OREA's investigation caseload has increased approximately 53 percent – from 160 cases at the end of 2002-03 to 245 cases at present.

   Staff Comment: The growth in workload suggests the restoration of this position may be warranted. The budgetary savings realized in the past two years suggests the cost of this position should be absorbable within existing budgetary resources.

   Staff Recommendation: Approve the restoration of one Property Appraiser/Investigator position, but deny the budget augmentation of $101,000 because past savings suggests the cost of this position should be absorbable within existing budgetary resources.

   Vote:

2320 Department of Real Estate

A primary objective of the Department of Real Estate is to protect the public in real estate transactions and provide related services to the real estate industry.

The Governor proposes $43.3 million (no General Fund) in total expenditures and 347 positions for the Department – an increase of $8.8 million and 38 positions.

Issues for Discussion / Vote

1. **Fund Balance / Outstanding Loans (Informational Issue).** The Real Estate Fund has a projected balance of $42.2 million at the end of 2006-07 – down from $43.3 million at the end of 2005-06. Additionally, a $10.9 million loan is outstanding to the General Fund. In 2003, DRE reduced all fees to 1982 levels. The large fund balance has been helped by the growth in the licensee population. The licensee population grew from 297,359 in 1997-98 to 449,107 in 2004-05. The Department estimates the population will continue to grow with a peak in 2007-08 of 617,081, before drifting down to 523,745 in 2012-13.

   Staff Comment: As an information issue, DRE should discuss whether any portion of fund revenue is fungible to the General Fund or other special funds. Additionally, DRE should discuss whether any further fee reductions are anticipated.

   Staff Recommendation: Information – no action necessary

2. **Information Technology Replacement Project (BCP #3).** The Administration requests funding of $1.4 million in 2006-07, $497,000 in 2007-08, and $266,000 in 2008-09, to replace and upgrade the Department's personal computers and related hardware and software. The project Feasibility Study Report (FSR) notes that the Department currently has 383 personal computers purchased in 1998 and 69 laser printers purchased in 1999. Additionally 58 laptops and 18 servers were purchased in 2001. The FSR indicates that Microsoft Windows NT for Workstations has reached the end of its product support life cycle, and without the upgrade, the Department will be more vulnerable to viruses and hackers.

   Staff Comment: Staff understands that many departments replace personal computers on a four to six year cycle, so this BCP request seems consistent with standard practice.

   Staff Recommendation: Approve the request.

   Vote:

3. **Interactive Voice Response Replacement IT Project (BCP #2).** The Administration requests funding of $133,000 in 2006-07 and $1.8 million in 2007-08 to procure a new and improved Interactive Voice Response (IVR) phone system.

   Detail: The project Feasibility Study Report (FSR) notes that the current IVR system is insufficient to handle the current call volume – with only 42 percent of calls able to get through. Additionally 46 percent of current calls are incorrectly routed. The proposed system would have the objectives of increasing the number of calls that successfully get through to 89 percent and decreasing the number of incorrectly routed calls to 5 percent. The new system would also provide new functionality such as the ability to inform callers of their wait time to speak with an attendant and multilingual consumer information.

   Staff Comment: The FSR suggests there are major deficiencies to the current automated phone system, which would be remedied with the new system.

   Recommendation: Approve the request.

   Vote:

4. **Electronic Examinations IT Project (BCP #1).** The Administration requests funding of $1.3 million in 2006-07, $1.6 million in 2007-08, and $990,000 in 2008-09 for an information technology project to implement electronic exams via “Thin Client Devices.” The current exams utilize scannable paper answer sheets that are then mailed to Sacramento for processing and the raw data is automatically transferred to the Oracle database. Exams would continue to take place at DRE facilities or at contracted facilities under the supervision of proctors.

   Staff Comment: The BCP indicates it is the Department’s goal to reduce original licensing process time from 83 to 54 days. Under the current process, the exams are mailed to Sacramento and then licenses are mailed to successful applicants – this process can take one to two weeks. Under the proposed system, people who pass the exam could walk out of the exam center with a temporary license and go to work that afternoon. There are some cost avoidances and cost savings noted in the request – such as reduced paper costs and a reduction in the number of proctors needed. However, according to the Economic Analysis Worksheet the project has a net cumulative cost of about $4.0 million through 2009-10.

   While a one or two week acceleration of the licensing process might not be of critical importance, Staff spoke with the California Association of Realtors (CAR) and understands industry is supportive of this project because for an unemployed person waiting to start a new career, a one or two week delay can be significant.

   Staff Recommendation: Approve this request.

   Vote:

5. **Restoration of Information Technology Position (BCP #4).** The Administration requests funding of $124,000 for a Software Specialist II position. The Department indicates the position would be utilized for eLicensing development, and Web system enhancement and maintenance in DRE's Information Systems Section (ISS). The BCP notes that two ISS positions were lost in 2003-04 due to vacant position eliminations.

   Staff Comment: The restoration of this position would still keep the Information Systems Section below the 2002-03 staffing level. The BCP indicates the workload has not declined while the staff has.

   Staff Recommendation: Approve the request.

   Vote:

6. **New Enforcement Positions (BCP #5).** The Department requests $2.7 million and 33 new positions for the Enforcement Program. The BCP indicates that the licensee population grew from 297,359 in 1997-98 to 449,107 in 2004-05. The Department estimates the population will continue to grow with a peak in 2007-08 of 617,081, before drifting down to 523,745 in 2012-13. Over the 1997-98 to 2004-05 period, the DRE staff fell from 314 positions to 303 positions. DRE indicates its Enforcement Program workload has grown with the number of licensees, staffing has not kept pace, and increased delays have resulted.

   Background / Detail. In 2004-05, the Department received an augmentation of 13 permanent positions in the Licensing Program to address workload growth. In 2005-06, the Department received an augmentation of 16 two-year limited term Licensing Program positions to address what was assumed to be a peak in workload. No positions have been added in recent years to the Enforcement Program. The Enforcement Program reports: the percentage of pending investigations that are over 6 months old grew from 34 percent in 2002-03 to 44 percent in 2004-05; the turnaround times for audits has increased from 99.8 days in July 2002, to 106 days in March 2005; and the time it takes the Legal Section to file an action has increased from 38.7 days in 2001-02 to 114 days in 2004-05.

   Staff Comment: Since the number of real estate licensees and the Department's resulting workload fluctuates with the overall real estate market, the DRE should be prepared to discuss why some or all of the positions requested here are not limited term. Note, the number of licensees fell from 375,986 to 297,000 over a five-year period in the mid-1990s.

   Staff Recommendation: Approve the request, but also add provisional language to budget item 2320-001-0317 to require the Department to report by January 10, 2008, the actual workload data for 2005-06 and 2006-07, and indicate if any staffing and funding changes are warranted.

   2. The Department of Real Estate shall report to the committee of each house of the Legislature that considers the Budget Bill and the Legislative Analyst's Office by January 10, 2008, (a) actual workload data for 2005-06, and 2006-07 compared to the workload projected by the Department in February 2006, (b) projected workload data for 2007-08 and 2008-09, and (c) any staffing and funding changes requested based on (a) and (b). Workload data shall include, at a minimum, the total number of licensees; the number of on-site and off-site exams scheduled; the number of licenses issued; the number of enforcement cases assigned; the number of audits performed; the number of Subdivision Program filings; and the number of legal actions filed.

   Vote:

7. **New Positions for the Subdivisions Program (BCP #6).** The Department requests an augmentation of $406,000 and 4 positions for the Subdivisions Program. The Program enforces the provisions of the Subdivided Lands Law to protect purchasers of real property and those persons conducting business within the development community. This augmentation would increase Subdivisions Program staffing to 63 positions.

   Background / Detail: Most subdivisions of land consisting of five or more lots or units are subject to State regulation, and no person may offer to sell or lease interests in any subdivision without first applying to the Department and obtaining a public report for the subdivision. The BCP indicates the Subdivisions Program lost 23 positions between 1994-95 and 2004-05, while the volume of filings increased from about 2100 to about 4200 over the same period. DRE indicates that efficiencies have reduced processing times by 19 percent; however, this has not been sufficient to keep the average processing times from increasing from 39 days to 60 days (over the 1994-95 through 2004-05 period).

   Staff Comment: The growth in the volume of fillings and delayed processing times suggest additional staffing is needed. The provisional language recommended with Issue #6 would include data on this workload.

   Staff Recommendation: Approve the request.

   Vote:

8. **Operating Expense and Equipment Augmentation (BCP #7).** The Department requests an ongoing augmentation of $2.3 million for unfunded increases in off-site examination facilities ($647,000), credit card costs ($36,000), postage ($193,000) and Office of Administrative Hearing costs ($1,466,000).

Detail: The Department indicates the number of licensees will decline in the future with a leveling off of the real estate market; however, it believes this permanent augmentation is still warranted.

- **Off-site examination facilities** – DRE indicates the quantity of applicants scheduled for exams has increased 300 percent since 2000-01 and a temporary baseline augmentation of $143,000 for 2005-06 and 2006-07 has not been sufficient to cover the costs. DRE has dedicated exam facilities, but has leased additional space when capacity is met.
- **Credit Card Costs** – DRE began accepting credit card payments for all DRE license fees in 2000 and has since expanded to now accept credit card payments for exam fees. DRE received a temporary baseline adjustment of $200,000 for 2005-06 and 2006-07; however, credit card fees are expected to total $501,000 in 2006-07. The estimated 2006-07 shortfall is $36,000 and the 2007-08 shortfall is $267,000 (due to the expiring limited-term authority).
- **Postage Costs** – DRE reports a postage shortfall of $193,000. Postage expenditures grew 91 percent from 2001-02 to 2004-05. This increase is driven by volume of mailings not the increased cost of postage (which is separately augmented in the budget).
- **Office of Administrative Hearings –** DRE reports the number of disciplinary cases filed with OAH has increased over 50 percent and the hourly rate for the Administrative Law Judges has increased 11 percent since 2001-02 without a funding augmentation. DRE expects the number of hearings to grow in proportion to licensees and the request is based on the difference between current funding and anticipated future costs.

Staff Comment: The Department's BCP ties the requested augmentation to actual costs and anticipated growth in licensees. As with the prior two issues, Staff recommends a DRE report in 2008 to see if actual growth in licensees meets current expectations.

Last year the Administration made some related budget augmentations as baseline adjustments and did not provide a BCP. The Governor's Budget did note "Miscellaneous Increases (Workers Comp, Overtime, Examination Facilities)" at a cost of $455,000. Finance now indicates that those adjustments totaled about $1.1 million and were included in another line titled "Various baseline adjustments."

Staff Recommendation: Keep issue open and direct staff to work with the Department to reconcile and justify the augmentations made in last year's budget.

2400 Department of Managed Health Care

The Department of Managed Health Care (DMHC) was established in 2000, when the licensure and regulation of the managed health care industry was removed from the Department of Corporations and placed in a new, stand-alone, department. The mission of DMHC is to regulate, and provide quality-of-care and fiscal oversight for Health Maintenance Organizations (HMOs) and two Preferred Provider Organizations (PPOs). These 94 Health Care Plans provide health insurance coverage to approximately 64 percent of all Californians. Recent statutory changes also make DMHC responsible for the oversight of 240 Risk Bearing Organizations (RBOs), who actually deliver or manage a large proportion of the health care services provided to consumers. Within the Department, the Office of the Patient Advocate helps educate consumers about their HMO rights and responsibilities.

The Governor proposes $41.5 million (no General Fund) in total expenditures and 302 positions for the department – an increase of $5.5 million and 21 positions.

Issue Proposed for Consent / Vote-only

1. **Reimbursement Authority: Managed Risk Medical Board workload (BCP #5).** The Department requests an augmentation in reimbursement authority of $220,000 to receive funds from the Managed Risk Medical Board (MRMIB) to conduct health plan medical loss ratio reviews. The medical loss ratio is the amount of revenues from health insurance premiums that is spent to pay for medical services covered by the plan. The reimbursements would fund two new Examiner positions. MRMIB currently contracts with Price/Waterhouse Coopers for these reviews at a cost of about $54,000 per review. DMHC believes it can perform these same reviews for about $18,000 per review. The resulting annual cost savings for MRMIB would be approximately $422,000.

   Staff Comment. The Managed Risk Medical Board is heard in Senate Budget and Fiscal Review Subcommittee #3. The Committee Consultant for MRMIB does not believe Subcommittee #3 will have any concerns over this proposal.

   Staff Recommendation: Approve the request.

   Vote:

Issues for Discussion / Vote

1. **Provider Oversight Program (BCP #1).** The Department proposes to augment funding by $3.8 million and 17 positions to conduct financial solvency oversight of Risk Bearing Organizations (RBOs) and ensure prompt and sufficient payment of health care provider claims. The positions would staff the proposed Office of Provider Oversight, which would include a Provider Solvency Unit, a Provider Complaint Unit and an associated Provider Oversight Management Group. The request includes $100,000 for contracting-out consulting services in the areas of medical coding, and medical necessity of services provided. The new office would supplement and supplant the Department's existing Provider Complaint Unit, which was established on an interim basis with borrowed and temporary resources in 2004.

   Background: SB 260 (Chapter 529, Statutes of 1999, Speier), established the Financial Sovency Standards Board (Board) and placed certain financial standards on RBOs and required DMHC to adopt related regulations. The initial regulations were challenged in court, and final regulations were not approved by the Office of Administrative Law until 2005. DMHC indicates that three positions were added for SB 260-related activity in 2002-03; however two of the positions were eliminated due to vacant position reductions.

   AB 1455 (Chapter 827, Statutes of 2000, Scott) established new requirements for prompt and fair payment of provider claims by health plans, and authorizes DMHC to impose sanctions on a plan when an unfair payment pattern is found. Following the adoption of regulations, the Department established the Provider Complaint Unit (PCU) "pilot" in September 2004 with borrowed and temporary resources; however, no positions have ever been added to the DMHC budget for AB 1455 workload.

   Staff Comment: The Department should be prepared to discuss standards for initiating investigations, standards for assessing fines and the appropriate level of fines, and how these assumptions affect Department revenue and staffing.

   The Governor's Budget indicates expenditures exceeding revenues by approximately $800,000 in 2006-07 and the special fund balance ends 2006-07 with a balance of $2.0 million. The bill analysis for AB 1455 indicated an increase in assessments may be necessary, and the Department indicates a fee increase may be needed in the future. The Department has the ability to increase fees within existing statutory authority.

   Staff Recommendation: Keep this issue open – direct staff to continue working with DMHC and interested parties on issues of oversight and enforcement to better assess the budget request.

   Vote:

2. **Staffing Augmentation for Legislative Analysis & Support (BCP #3).** The Department requests $165,000 (special fund) and authority to add two permanent positions (an Associate Governmental Program Analyst and an Office Technician) for legislative analysis and support workload.

   Background/Detail: The Department indicates that the Office of Legal Services, which includes the Legislative Division, originally consisted of 31 authorized positions, but through vacant position eliminations was reduced to 25 positions. The Legislative Division has always had only one staff position, but the Department indicates other staff time has been redirected in recent years to handle the workload, and that continued redirection carries a "very real risk" of missing statutory and/or court-imposed deadlines. In 2003 and 2004, 1998 staff hours and 4979 staff hours were respectively used for legislative workload. The DMHC expects about 8,000 hours of legislative workload in 2005-06.

   Staff Recommendation: Approve the request.

   Vote:

3. **2005-06 "Workload & Administrative Adjustment" (Staff Issue):** The Governor's Budget display titled "Changes in Authorized Positions" indicates that 13.0 positions were administratively added to the Department's budget in 2005-06. Pursuant to Budget Control Section 31.00, the Administration does have the authority to add positions within the same fiscal year if the budgeted resources are sufficient. A full-year cost for the 13 added positions is approximately $1.0 million.

   Staff Comment: The administrative addition of 13 positions raises several issues:
   - What workload are these positions performing?
   - Why didn't the DMHC submit a BCP last year to establish these positions?
   - Why does the Department have $1.0 million in "extra" budget authority? (How was the Department able to fund 13 new positions without needing a budget augmentation?)

   Staff Recommendation: If the Department does not adequately answer the concerns of the Subcommittee during testimony, the Subcommittee may want take action to reduce the DMHC budget by $1.0 million and consider restoring funding only after the Department submits a Finance Letter that justifies the activity and expenditure.

   Vote:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, March 9, 2006
Upon Adjournment
Room 112

Consultant: Dave O'Toole

Control Section/Item and Description **Page**

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Control Sections 3.45 and 4.05

Unallocated Reductions

The Governor's Budget includes $308 million in unallocated reductions to departments' state operations budgets through adjustments made in budget "control sections" 3.45 and 4.05.

Control Section 3.45 is intended to generate $58 million in savings through a cut to salaries and wages budgets. Agency secretaries will be provided target reduction goals of one percent of departmental salaries and wages costs, which will be achieved primarily through eliminating vacancies, but also through nonsalary reductions to staff benefits and operating expenses.

Control Section 4.05 is intended to generate $200 million in budget year savings through unspecified reductions in departments' budgets. These reductions can be separated into two components:

- In the budget year, $100 million will be achieved through departmental savings to be identified. Savings may be achieved through General Fund reversions. In recent years, the majority if savings realized were General Fund reversions.
- An additional $100 million in the budget year, in this case citing intent language included in Control Section 4.05 of the 2005 Budget Act. That budget bill language asserted that the intended use of those savings would be to increase the General Fund reserve by $200 million by the end of 2006-07.

Additionally, the Administration identified $50 million in current year savings to be realized by working with Agency Secretaries to identify reductions. The Administration asserts that basis for this reduction is end of year savings which are normally not recognized until the subsequent fiscal year (2006-07). This proposal would advance the recognition of those savings into the current year.

LAO Comment:

These control sections provide the administration with authority to reduce departmental General Fund appropriations during the year, after the budget is enacted. In total, the Governor's budget assumes that these control sections will reduce state General Fund expenditures by $258 million in 2006-07.

Past Authority Has Not Achieved Intended Objectives. Over the past few years, the state budget has included a variety of control sections similar to the ones proposed for 2006-07. These sections are summarized in Figure 1. The state's experience with these sections raises a number of concerns, which we discuss below.

Savings Scored but Never Achieved. Recent budget plans have assumed sizable savings from these types of sections. As shown in Figure 1, recent annual estimates have ranged from $100 million to $750 million. In reality, these savings are rarely achieved. As a result, in such cases the enacted budget overstates the expected budgetary reserve-often by hundreds of millions of dollars.

Figure 1
Recent Midyear Budget Reduction Provisions

(General Fund Dollars)

Year	Provisions	Comment
2002-03	**Section 3.90—**Required $750 million in state operations reductions. Each reduction was limited to 5 percent.	Identified savings were less than half of the required amount.
2003-04	**Section 4.10—**Required savings of $181 million. Allowed reductions to state operations appropriations by up to 15 percent. **Sections 55 and 56 of Chapter 228, Statues of 2003 (AB 1756, Oropeza)—**Allowed reductions and reallocation of appropriations within a department to address unexpected costs. Contained no percentage limits. **Section 27.00—**Allowed a reduction to an appropriation of up to 5 percent to pay for a deficiency.	Some reductions shifted costs to the deficiency process, rather than reduce expenditures. Authority under Chapter 228 and Section 27.00 were used infrequently.
2004-05	**Section 4.10—**Required $300 million in savings (half from efficiencies and half from reorganizations). State operations appropriations could be reduced by up to 20 percent, and local assistance appropriations could be reduced by up to 5 percent.	Administration only identified $58 million of the required $300 million in savings. Most of the savings would have occurred "on the natural," such as from caseload adjustments.
2005-06	**Section 4.05—**Requires $100 million in savings.	Administration identified $100 million of savings in December 2005. Virtually all savings would have occurred on the natural.

Program Impact Unknown. The reductions that have been implemented are typically done with almost no detail provided to the Legislature regarding their programmatic impact. It is often months or years later that the Legislature discovers that programs that were reduced are no longer functioning as expected. For example, the 2006-07 budget contains a number of proposals to provide augmentations to replace funding that was eliminated in midyear reductions in prior years.

Reductions Reflect Administration's-Not Legislature's-Priorities. Any unallocated reduction authority given to the administration will expose legislative priorities to reductions. An administration naturally will protect its own priorities and sacrifice programs that it deems less important. For example, in the health area, previous reductions have targeted a prostate cancer treatment program and Medi-Cal antifraud activities-both of which were priorities of the Legislature.

Savings Unlikely to Be Achieved. Based on recent experience, we estimate that only a fraction of the assumed budget savings would be achieved. Over the past two years, most of the savings identified have not been from cost reductions or improved efficiencies. Instead, the administration counts caseload reductions, increased federal offsets, or similar issues as savings. These types of savings typically are captured on the natural in the "unidentifiable savings" category of the budget. When these types of savings are instead scored under a control section, the practical effect is to reduce the unidentifiable savings item on a dollar-for-dollar basis. The budget, however, assumes the state will still achieve unidentifiable savings in 2006-07 ($340 million).

Recommend Deleting Control Sections. Given the consistent failure of control sections to achieve desired savings and the loss of legislative authority, we recommend that these sections be deleted from the budget bill. The administration should identify any *specific* proposed savings in departmental budgets during the spring budget process. This would allow the Legislature to understand any programmatic impact from the reductions and protect its own priorities. Moreover, if the administration desires to make appropriation changes once the budget is enacted, it can seek statutory changes.

Staff Comment: An additional $150 million in *department-specific* unallocated reductions originally included in the proposed 2005-06 budget were, through budget hearings and revised estimates, reduced to an *estimated* $75 million in ongoing savings. (The actual number is expected from Finance this month.) The Legislature had sought specific information on how these department-specific reductions would occur and added Control Section 4.10 to the 2005 budget bill, which stated:

> *SEC. 4.10. No later than December 10, 2005, the Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house the reductions made pursuant to the unallocated reductions included in this act. The report shall include the following: each specific reduction by department, agency, and program; whether the reduction is one-time or ongoing; its programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.*

This section was vetoed with the message,

> *"This language is an infringement on the Executive Branch's budget development process as the information necessary to produce this report may include budgetary decisions that would not be reached until the preparation of the 2006-07 Governor's Budget was complete."*

If these control sections are enacted, the Legislative must have better oversight. The following amendments to the budget bill would improve oversight in a manner that won't infringe upon executive privilege during the budget development process.

Control Section 3.45

(f) The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations not later than January 20, 2007, the amount of the reductions made in each item of appropriation pursuant to this section. The report shall ~~list the amount of reductions by Agency and department.~~ *include the following: each specific reduction by department, agency, and program; whether the reduction is one-time or ongoing; a description of programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.*

Control Section 4.05

(e) The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees of each house of the Legislature that consider appropriations not later than February 15, 2007, the amount of the reductions made in each item of appropriation pursuant to this section. The report shall ~~list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction~~ *include the following: each specific reduction by department, agency, and program; whether the reduction is one-time or ongoing; a description of programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.*

STAFF RECOMMENDATIONS:

1. Request that the DOF explain how, given the history of unachieved reduction goals documented by the Legislative Analyst's Office, these savings will be achievable:
   - $58 million in salaries and wages reductions
   - $200 million in budget year unallocated reductions

2. Amend Control Sections 3.45 and 4.05 to include budget bill language provided above.

VOTE:

CONTROL SECTION 4.06

The proposed budget bill includes Control Section 4.06 which, if enacted, would enable the Director of Finance to make mid-year reductions to General Fund appropriations. Reductions would be limited to 25 percent of an appropriation and require notification to the Legislature within 30 days of the reduction occurring. Specifically, this control section states:

> *SEC. 4.06. Notwithstanding any other provision of law, the Director of Finance may, when it is deemed to be in the interest of the state, reduce any existing General Fund appropriation, except for any appropriation made to school districts or Community College districts for the purposes of Section 8 of Article XVI of the California Constitution. Reductions shall be limited to twenty-five percent (25%) of the affected appropriation. The Director of Finance shall provide written notification to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee of such an action within 30 days.*

The Administration asserts this authority was entrusted with the Governor between 1939 and 1984. The authority at that time and current law are as follows (emphasis added):

1939-1983
Government Code 13322. <u>Before or after approval</u>, the department may revise, alter, or amend any fiscal year budget, if, in its opinion, revision, alteration or amendment is required in the interest of the State. The department shall notify the head of the State agency or court of any revision, alteration, or amendment of its fiscal year budget.

CURRENT LAW
Government Code 13322. <u>Until enactment of the budget act containing the appropriations funding the fiscal year budget</u>, the department may revise, alter, or amend any fiscal year budget, if, in its opinion, revision, alteration or amendment is required in the interest of the State. The department shall notify the head of the State agency or court of any revision, alteration, or amendment of its fiscal year budget.

LAO Comment: ***Control Section 4.06-25 Percent Reductions.*** This section allows the administration "notwithstanding any other provision of law" to reduce appropriations by up to 25 percent "when it is deemed to be in the interest of the state." Proposition 98 appropriations would be excluded. The budget does not assume any savings from this section.

Reductions Reflect Administration's—Not Legislature's—Priorities. Any unallocated reduction authority given to the administration will expose legislative priorities to reductions. An administration naturally will protect its own priorities and sacrifice programs that it deems less important. For example, in the health area, previous reductions have targeted a prostate cancer treatment program and Medi-Cal antifraud activities-both of which were priorities of the Legislature.

Recommend Deleting Control Section. Given the consistent failure of control sections to achieve desired savings and the loss of legislative authority, we recommend that this section be deleted from the budget bill. The administration should identify any *specific* proposed savings in departmental budgets during the spring budget process. This would allow the Legislature to understand any programmatic impact from the reductions and protect its own priorities. Moreover, if the administration desires to make appropriation changes once the budget is enacted, it can seek statutory changes. For example, the Legislature adopted midyear savings totaling $2.2 billion for the 2001-02 fiscal year in this manner.

Staff Comment:

The necessity for this authority is not clear. Article IV, Section 10 (f) of the State Constitution, provides that

1. If the Governor determines, after enactment of the budget bill for 2004-05 budget or any subsequent fiscal year, the state is facing a *substantial* revenue shortfall or General Fund expenditures *substantially* increase above General Fund revenue estimates, the Governor may declare a fiscal emergency.

2. The Governor is required to identify the nature of the fiscal emergency, propose legislation to address the problem, and call the Legislature into special session for that purpose.

3. Authorizes the Legislature up to 45 days to enact the Governor's proposals or an alternative solution. If the Legislature fails to solve the problem in 45 days, then the measure prohibits the Legislature from recessing or acting on any other legislation until it acts to resolve the fiscal emergency.

Control Section 4.06 would diminish the role of the Legislature. It provides the Governor unilateral authority to reduce appropriations up to 25 percent and unlike Proposition 58 (enacted by the voters in 2004), does not require the reductions be approved by the Legislature.

Under Proposition 58, the Governor must first determine, prior to issuing a fiscal emergency proclamation that General Fund revenues will decline *substantially*, or expenditures will increase *substantially* above revenue estimates. Under this control section, there is no such requirement, only that reductions be deemed to be in the interest of the state, as determined by the Director of Finance. “The interests of the state” is undefined.

STAFF RECOMMENDATION*:* DELETE Control Section 4.06.

VOTE:

8940 Department of the Military

The Military Department is responsible for the command, leadership and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard is to provide military service supporting this state and the nation. The three missions of the California National Guard are to provide: (1) mission ready forces to the federal government as directed by the President; (2) emergency public safety support to civil authorities as directed by the Governor; and (3) support to the community as approved by proper authority. In addition to the funding that flows through the State Treasury, the Military Department also receives federal funding directly from the Department of Defense.

The Governor's budget funds 685.9 positions (including 17 new positions) and $111.5 million in expenditures ($38.1 million General Fund, $62.0 federal funds, and $11.4 in other funds and reimbursements).

BUDGET CHANGE PROPOSALS FOR CONSENT:

A. 129th Civil Engineering Squadron
The California Military Department (CMD) requests $52,000 General Fund to match a $156,000 federal appropriation to establish three State Civil Service positions at the 129th Civil Engineering Squadron (CES) at Moffett Federal Airfield. These two electricians and one maintenance position are deemed essential for the 129 CES to properly maintain and repair federal facilities and infrastructure used for responding to terrorist threats, natural disasters, civil unrest, and other emergencies in California.

B. Armory Custodian Positions
The California Military Department requests two positions and an increase of $97,000 ($73,000 Federal Trust Fund, $24,000 General Fund) for two armory custodian positions to support two newly constructed multi-unit armories in Fresno and Van Nuys. The establishment of these positions will ensure that minimum standards at these facilities are maintained for Army National Guard soldiers, as well as public and private entities utilizing the facilities.

C. Homeland Security Augmentation
The California Military Department requests increased reimbursement authority of $1,747,000 and seven three-year limited-term positions in the budget year to spend funds received by the CMD pursuant to (1) an inter-agency agreement with the Governor's Office of Homeland Security (OHS) for staffing support and (2) an OHS sub-grant to CMD for equipment. The original source of the funds is from the federal Homeland Security Grant Program (HSGP). These funds will allow the CMD to increase staff support to the HSGP at OHS as it manages terrorism training and exercise programs for weapons of mass destruction. The funds will also allow the CMD to purchase authorized personal protective equipment for homeland security operations.

D. Civil Support Retention Team Bonus
The California Military Department requests $85,000 General Fund for annual retention bonuses of $2000 each to 44 members of the Weapons of Mass Destruction Civil Support Teams. These payments are consistent with AB 690 (Saldana, 2005), which authorizes a state retention bonus in the amount of $2,000 to be awarded annually to a member of the California National Guard serving on the Weapons of Mass Destruction Civil Support Team, provided that the member is a certified hazardous materials specialist or technician. The $85,000 requested includes application of a 97 percent staffing ratio.

E. Armory Maintenance and Repair Augmentation
The California Military Department requests a one-time $3.5 million augmentation ($3 million General Fund and $500,000 in federal funds) to address a current backlog of maintenance and repair, asbestos, and modernization projects. Of the total $3.5 requested, $2 million would be

applied to maintenance and repair projects and $1.5 million to modernize existing facilities. Many buildings are over 45 years old and updating has been inconsistent. The total estimated maintenance and repair budget for all armories in the state is $35 million.

F. San Luis Obispo Dining Hall: Construction Phase
The California Military Department requests $9.3 million ($8.724 million federal funds, $528,000 General Fund) to construct a new dining facility at Camp San Luis Obispo. The project will include a dining room, scullery, kitchen, dishwashing area, food storage areas, and restrooms. This construction is paid for primarily by federal funds, with additional state funds necessary for construction supervision and equipment.

G. Armory Kitchen and Latrine Renovations
The California Military Department requests $1.6 million ($1.177 million Federal Funds, $391,000 General Fund) to renovate kitchens and latrines at selected armories in California. This work is necessary primarily for health and safety reasons, but also to update the working conditions of the state's troops and living conditions for displaced persons housed there during natural disasters.

VOTE ON CONSENT ITEMS (A through G):

DISCUSSSION ITEMS

1. STATE MILITARY RESERVE TRAINING AUGMENTATION
The California Military Department requests $261,000 General Fund and two personnel years for the State Military Reserve (SMR) in order to address increased workload associated with recruitment and support travel and per diem costs for professional training. Demands on the SMR have increased since September 11, 2001, and resources and compensation for a volunteer force has been stretched.

Turnover in the 540-person SMR has been high. According to the department, over the last 12 months 141 new recruits had to be brought in, a turnover rate of approximately 25 percent. This BCP includes $75,000 for a "minimum" level of compensation for the out of pocket costs and lost pay for the SMR instructors.

Staff Comment:
In addition to the primary deficiencies identified in the BCP (support for training and recruitment to maintain SMR strength), the request includes a position to support administrative workload. The latter request is for a position to "assist the full-time Executive Officer with planning and execution of recruiting activity and other operational missions." The subject of this proposal does not clearly support the establishment of this position or its tie to the recruitment and training need identified in the BCP. A separate request may more appropriately address the office staffing need.

Staff notes that the Bureau of State Audits will release in late spring an audit of the CMD, including an analysis of position management at the CMD. As such, it may be premature to approve an administrative office staffing augmentation at this time.

STAFF RECOMMENDATION: REDUCE the BCP by the staff services analyst position and associated staff benefits and OE.

VOTE:

2. HEADQUARTERS COMPLEX

The California Military Department requests $1 million General Fund to acquire a two-year purchase option on 30 acres of land at the former Mather Air Base. This purchase option is intended to secure land for later construction of a new headquarters complex. The new headquarters complex would be a four-story complex including offices, personnel and work areas, a cafeteria, lockers and fitness center, assembly hall, classrooms, conference rooms, and other spaces deemed necessary for a headquarters complex. The current estimate for the entire project (design through construction) is $98.5 million ($34.4 million General Fund and $64.1 million federal funds). Six facilities in Sacramento and in San Luis Obispo would be consolidated into the new space.

The lease on the existing headquarters facility extends through 2017. The establishment of a new headquarters building (from design to occupancy) will take approximately six years.

Staff Comment: The department submitted a budget change proposal last year for $7 million to purchase the land at Mather Air Field. This BCP is a reduced request to exercise a purchase option only on the property. Notwithstanding the lower cost, this BCP represents a commitment by the state to build a headquarters facility at Mather Air Field at an estimated state cost of $34 million General Fund. The Legislature must carefully weigh this long-term obligation against ALL CMD infrastructure needs.

Staff notes that the Legislature's denial of last year's BCP request was based on a determination that maintenance on armories across the state was a higher priority than building a new headquarters complex. The funding diverted from the headquarters land acquisition to armory maintenance was subsequently vetoed by the Governor.

STAFF RECOMMENDATION: HOLD OPEN and request the Administration provide staff and the LAO with a department space management plan. This plan should include an analysis of the relative need for this project versus armory maintenance and repair projects, the relocation plan for staff, an overall strategy to address material deficiencies at armories, the implications for leasing and sale of the six affected facilities, the strategic and security need for this new facility, an explanation for why this purchase must be made in 2006-07, and other information necessary for the Legislature to fully evaluate the request.

VOTE:

3. SOFTWARE SYSTEM SPECIALIST II – SYSTEMS SECURITY OFFICER

The CMD requests $99,000 General Fund to provide an additional Software Systems II (technical) position for security support for the California National Guard's computer network. This position would augment 1.6 federally funded positions who oversee critical network management, maintenance, and security activities.

The need for this position has been evaluated and supported by DOF's technology review unit.

Staff Comment: The need for six additional IT security personnel at the CNG was identified in a 1998 federal National Guard Bureau report. The CNG subsequently determined that 3.5 of the six positions were for "critical" for network management, maintenance and security activates. The National Guard Bureau funded 1.6 positions of the total need they identified.

Federal funding for systems security positions may be forthcoming in October 2008 as part of the Department of Defense budget for the subsequent fiscal year. The Administration and Legislature should reexamine this need during 2008-09 budget development. (If necessary, a mid-year budget adjustment can be made for unanticipated federal funds through Control Section 28.00.) Making these positions limited-term will enable the Administration and Legislature to save General Funds if federal funds become available, as well as review updated IT security needs.

STAFF RECOMMENDATION: AMEND the BCP to make the position three-year limited term.

VOTE:

4. Establishment of Internal Control Office

The Military Department (CMD) requests a General Fund augmentation of $182,000 and two auditor positions to establish an Internal Control Office (ICO). This office would report directly to the Office of the Adjutant General and would establish, for the first time, a team of trained auditors within the CMD to review the integrity and effectiveness of CMD fiscal and program operations.

The Military Department has identified deficiencies in several areas, including outdated policy and procedures manuals, inadequate procedures to assure that internal controls are evaluated, and an absence of CMD risk analysis in the establishment of controls. These and other financial and management deficiencies have resulted in a BSA audit, expected for release in May.

According to the BOE, departments of similar size whose total budgeted levels are closest to the Military Department are State Controller with two Internal Control (IC) staff; the Department of Toxic Substances Control with three IC staff; and the Victim Compensation and Government Claims Board with three IC staff. The Department of Real Estate, with a budget approximately one-third that of the Military Department, has two IC staff. The Department of Finance Office of State Audits and Evaluations recommends that an Internal Control unit consist of a minimum of two staff.

Staff Comment:

The CMD has come under scrutiny in recent years regarding their management of resources. A Bureau of State Audits report to be released in May is expected to confirm the need for the CNG to augment their internal controls.

The Legislature may desire performance reporting on this new office, particularly in light the circumstances that necessitated a BSA audit.

Budget bill language to accomplish that end would state:

> *No later than April 10, 2007, the department shall provide the Legislature a report on the findings of the Internal Control Office. This information shall include, at a minimum, (a) identified control deficiencies based on the initial risk analysis, (b) any improvements made to date, and (c) a work plan for addressing the remaining deficiencies as well as the criteria for prioritizing the subject and scope of ongoing internal reviews.*

STAFF RECOMMENDATION: APPROVE the BCP and add the budget bill language provided above to Item 8940-001-0001.

VOTE:

5. OPERATING EXPENSE – FUNDING FOR POSTAGE

The state recognizes that cost of postage is a significant department expense and specifies that their budgets identify it distinctly. The CNG's budget includes $35,000 for postage costs in the budget year.

Staff Comment: Expenditures on postage in the budget year reflect a quadrupling of costs relative to the past year actual expenditures of $9000. Estimated current year expenditures are also unexpectedly high, at $24,000. Notwithstanding the recent increases in stamp costs, this level of increase is not reasonable. Based on the recent postage increases, it appears that the CNG postage budget is overstated.

STAFF RECOMMENDATION: See recommendation for Military Family Relief Fund below.

VOTE:

6. MILITARY FAMILY RELIEF FUND

The Military Family Relief Fund was established for the purpose of allowing taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Military Family Relief Fund. The monies in this fund are allocated to the Military Department to provide financial aid grants to eligible members of the California National Guard who are California residents and have been called to active duty, under specified conditions.

Of the $282,000 collected for support of families who encounter financial distress while their family members are serving, only $7700 had been spent by March 1, 2006. The department has determined that eligibility criteria are the obstacle to allocating awards. Assembly Bill 2085 (Parra) would change the eligibility requirement by requiring a service member’s salary decreased by only 10 percent (as opposed to the current 30 percent) relative to the member's civilian salary, in order to receive a grant.

The CMD is responsible for publicizing the program and must do so within existing resources. They have built a web page, put an article in the service member’s magazine and created and distributed brochures and applications. The Operation Ready Families (ORF) network, a volunteer service for families with deployed service members, has shared information through their coordinators at monthly meetings. The CNG relies primarily on the ORF network to inform families of the fund.

Staff Comment: Notwithstanding the eligibility issues proposed for resolution in AB 2085, only 18 families have applied for this funding (three were approved for grants). An estimated 3300 eligible service members are deployed during the year. According to a Department of Defense survey of married National Guard members, 55 percent of respondents experienced a “significant” loss of income when they left their civilian jobs. The low number of applicants suggests service members and their families may not be fully aware of this financial support.

The CNGs communications efforts have not been focused on facilitating a service member’s application for fund monies. The brochure sent to the ORF network is primarily a description of the *purpose* of Military and Family Relief Fund and how to donate to the fund. (Information on how to find more information and an application is mentioned briefly on the inside flap.)

Given the apparent lack of interest from service members and their families, it appears that outsourcing communications to the ORF network has not succeeded. Families who do not participate in the ORF network or do so infrequently have little opportunity to hear about the support available from the Military Family Relief Fund.

The application for California Military Family Relief Fund support includes the following statement (seeking a response from the applicant):

> *I have done the following things to attempt to remedy the situation: (i.e. contacted the agency and requested extension Soldiers and Sailors Relief Act, requested assistance from family, etc.):*

This statement appears to create an obstacle for service members and their families by suggesting they try other fund sources and their families before completing the application.

Revenue and Taxation Code 18707, which stipulates how the funds be allocated, does not stipulate that this funding be made supplemental to other public or family support.

STAFF RECOMMENDATION:

1. Request the department report on:
   - Specific measures taken and associated costs for contacts made to family members while the service member is activated and away from home.
   - Specific measures taken and associated costs for contacts made to families of service members who do not participate in the ORF network.
   - Specific efforts made to proactively identify financially vulnerable families of deployed service members.

2. Utilize the savings from postage overbudgeting and add the following budget bill language to Item 8940-001-0001:

    Of the amounts appropriated in this item, $20,000 shall be expended for a comprehensive direct communications initiative to reach each California National Guard service member and his or her family. This initiative shall include, but not be limited to, quarterly mailings of eligibility information and applications for California Military Family Relief Fund funds to service members and families of deployed service members.

3. Direct the department to make quarterly reports to the Legislature on the communication methods used to encourage applications to the Military Family Relief Fund, the number of eligibility and applications packets mailed to service members, the number of applications received, and the number and dollar amount granted.

4. Request the CNG explain the rationale for making California Military Family Relief Fund support appear supplemental to other public and family financial assistance on the application form.

VOTE (ON #2 AND #3):

Key Revenue and Tax Issues

The Department of Finance (DOF) and Legislative Analyst's Office (LAO) have identified significant perils to the state's long-term fiscal health. In the *Governor's Budget Summary,* DOF identified a structural deficit of $6.4 billion, a figure estimated to increase to more than $9.7 billion by 2008-09. The LAO, in their *Perspectives and Issues,* identifies a still daunting but smaller shortfall of $4 billion in 2007-08 and $5 billion in 2008-09, noting that "the 2006-07 surplus masks large General Fund fiscal pressures both now and in the future when one considers both the risks associated with the economy, litigation, and the federal budget, as well as outstanding budgetary borrowing and unfunded retiree obligations."

The following three sections explore three key issues for the Legislature to consider when developing strategies to address the structural deficit: (1) the tax gap, (2) tax data consolidation and sharing, and (3) tax credits, deductions, exclusions, and exemptions.

1. THE TAX GAP

The first key solution to addressing the structural deficit (while at the same time strengthening the fairness of the state's tax system) is closing the tax gap.

The Tax Gap Defined

The tax gap is simply the difference between what individual and business taxpayers should pay and what is actually paid. The tax gap is harmful to the state in many ways, but principally because: (1) those who pay their fair share pay higher taxes to cover the gap, and (2) tax collections are undermined by the public perception that some are not paying their fair share.

The tax gap is manifested in three general forms: manipulated tax filings through underreporting of income and overstating deductions, nonfiling of tax returns, and underpayment of amounts owed. Underreporting income and overstating deductions is by far the most common form (80 percent of total) with nonfiling and underpayments making up the remaining causes (about 10 percent each).

Size of the Tax Gap

While no comprehensive study has been conducted in California, IRS data and statewide sampling indicates that the size of the gap has grown to approximately $7.9 billion dollars annually. (For historical perspective, California's tax gap was estimated at $2 billion in the 1980s.) The tax gap shortfall is comprised of $6.5 billion in personal income and corporation tax and a $1.4 billion gap in sales and use tax payments.[*] With California expected to collect $87.7 billion General Fund in the current year, this lost revenue amounts to nine percent of total annual General Fund revenue.

The FTB bases their estimate of the tax gap on federal estimates. The Internal Revenue Service's National Research Program completed a nationwide study on tax noncompliance using 2001 data. Based on the findings of that study, the FTB extrapolated to develop a California estimate. (Incidentally, the NRP has updated their study and is expected to revise their estimate upward. The FTB believes that the revisions won't significantly affect the $6.5 billion estimate.)

The Board of Equalization (BOE) bases their most recent estimate of the tax gap on the total amount of state sales and use tax that was due during the 2004-05 fiscal year, which amounted to approximately $28.2 billion. (For local agencies, who BOE also collects for, the total amount due is $14.5 billion. This discussion will not address local agencies' tax gap.) Of the $28.2 billion that should have been collected, $26.9 billion or 95.2 percent was paid voluntarily by those businesses registered with the Board. Without rounding, the gross state sales and use tax gap is

[*] Source: *California's Tax Gap*, Legislative Analyst's Office, February 2005.

$1.4 billion or 4.8 percent of the total amount of sales and uses taxes due. The sales and use tax gap is largely a use tax shortfall.

Notwithstanding the size of the tax gap in personal income, corporation, sales, and use tax, it would be extremely difficult and expensive—as well as practically unwise--to close the tax gap completely. Nonetheless, the measures described below and the revenues anticipated represent a small fraction of the total.

Responses to the Tax Gap

Addressing the tax gap involves a two-part response: facilitating compliance and improving enforcement. The legislative measures enacted and budget change proposals have utilized both approaches.

LEGISLATIVE EFFORTS

While it may be impossible to close the tax gap completely, several legislative measures have been proposed in recent years. When enacted, it is primarily the responsibility of the state's tax administration agencies, the Franchise Tax Board (FTB), and Board of Equalization (BOE) to carry them out. These measures include:

- Chapter 656, Statutes of 2003 (SB 614, Cedillo), which established penalties for marketing abusive tax shelters and created the Voluntary Compliance Initiative, a targeted effort to collect old tax debts. This measure ultimately generated $1.4 billion General Fund.
- Chapter 654, Statutes of 2003 (AB 1601, Frommer) enacted a comprehensive set of changes that increased penalties for investors, promoters, and organizers of abusive tax shelters; enhanced FTB's ability to pursue investors, promoters, and organizers of abusive tax shelters; and provided a limited window of time during which taxpayers who voluntarily come forward and pay all tax and interest due as a result of their use of abusive tax shelters may avoid the enhanced penalties this bill created.
- Chapter 226, Statutes of 2004 (SB 1100, Senate Budget and Fiscal Review Committee), established a statewide tax amnesty program. The amnesty program allowed for past due personal income, corporation, and sales and use tax debts from tax years before 2004 be repaid without penalty. A net revenue of $380 million was generated.
- Senate Bill 747 (Machado, 2005), would have increased penalties for persons that market, prepare, or otherwise contribute to abusive tax shelters. The FTB estimated a revenue gain of $50 million from this proposal. This bill passed out of the Senate but was not considered in the Assembly.
- Assembly Bill 1638 (Klehs, 2005), would assess a penalty for "failure to withhold" taxes for a nonresident contractor, nonresident sellers, and other clients. Assessing a penalty based solely on the failure of the withholding agent to withhold rather than on the amount of tax owed by the taxpayer. This bill was vetoed by the Governor.

FRANCHISE TAX BOARD EFFORTS

The FTB has embarked on several measures to address the tax gap. One of the more successful measures was the Integrated Nonfiler Compliance Program, described below.

Integrated Nonfiler Compliance Program [1]

The Integrated Nonfiler Compliance (INC) system came online in 2001, quickly identifying more than 750,000 state income tax nonfilers for the 1999 tax year and sending automated notices to

[1] "Nonfilers Take Note" (FTB press release, June 2001)

those businesses and individuals. The FTB uses more than 220 million income records received from employers, banks, the Internal Revenue Service, and other sources to compare its database of tax returns filed with the California income data. The FTB then contacts individuals to request returns from those who have California income but did not file a tax return. The FTB gives late filers 30 days to file their return or show why a tax return is not due. Those who ignore the letter will get a tax assessment with penalties and applicable fees.

The INC system reduced unnecessary taxpayer contacts by 55,000 and will identified and contacted 100,000 more nonfilers annually. To provide better customer service and communication, nonfiler notices are tailored to reflect the specific facts of the case rather than sending out a generic form letter.

In conjunction with the FTB's e-government initiative, the INC system has expanded self-service options to the Internet by creating a special web page specifically for nonfilers. From this single location, individuals can request more time to respond, retrieve information that can assist them in filing a tax return, learn about payment options, request tax forms, correct a misreported social security number, and get answers to questions they may have concerning the notices.

In April of 2001, the Federation of Tax Administrators announced the FTB as its 2001 Compliance Award winner for the development of the INC system. The Federation of Tax Administrators is a nonprofit organization comprised of taxation and revenue departments of the 50 states, District of Columbia, and New York City.

The INC system now generates around $500 million annually for the state.

Current Year Budget Efforts

For the current year budget, the FTB took steps to address the tax gap by proposing a multifaceted budget change proposal for personal income and corporation tax gap enforcement. The original BCP would have augmented FTB's budget by $8.6 million and 99.2 positions to enhance "tax gap" enforcement. Estimated revenue gains from this budget change proposal were $34 million in 2005-06.

During the 2005-06 budget hearing process, the Legislature amended the Administration's proposal by adding positions and funding, and extending existing positions in order to generate an additional $20.1 million in General Fund. Combined with the Administration's measures, this package of tax gap enforcement measures is expected to generate $54.0 million in new General Fund collections in the current year. The final elements of this year's tax gap measure included 150 positions for the following:

- Expanded efforts to identify fraudulent returns
- Pursue new information sources to identify nonfilers of tax forms
- Criminal investigations into underground economy (i.e. "black market") activities
- Expedited tax protest cases
- Established a multidisciplinary taxpayer noncompliance "discovery" program to research tax evasion strategies
- Augment tax audit staff by 34 positions
- Extended limited-term tax collection positions

BOARD OF EQUALIZATION

The BOE has initiated several programs to address the tax gap. One of the more notable efforts, the "Form 1032 Nexus Program," provides leads (through audits of California businesses) on out-of-state businesses that should be collecting the state's SUT due to their nexus with California. The BOE reports that this program raised about $6.5 million in 2004-05 with costs of about $500,000 annually.

NEXT STEPS

To the extent that the gap is not closed, honest taxpayers in California will continue to shoulder an unfair tax burden for those who violate the law. The "honesty tax" borne by responsible taxpayers can be reduced by vigilantly pursuing tax cheats, investigating tax evasion techniques, facilitating tax payments, and tightening tax loopholes, among other means.

The next steps that the Legislature should consider for addressing the tax gap are (a) the FTB's strategic plan to address the tax gap, (b) FTB proposals to combat abusive tax shelters, (c) LAO recommendations to help FTB close the personal income and corporation tax gap, (d) BOE budget proposals, and (e) other efforts to close the sales and use tax gap identified by the LAO.

A. FTB Strategic Plan to Address the Tax Gap

The Franchise Tax Board is in the process of building an overall strategic plan to address the tax gap. That plan is expected to outline broad themes for where the tax gap exists, as well as how the department should generally respond. No specific measures to address the tax gap are expected. The plan will be presented in coming weeks.

An important step in building that strategic plan was FTB's hosting of an "Income Tax Gap Symposium." In May of last year the FTB held a symposium in Los Angeles for the purpose of identifying new measures to reduce the tax gap. Presenters and panel participants included noted experts in the field of tax compliance, university law and tax professors, and IRS and FTB staff. Key strategies identified at the symposium were:

1. Use more data and improve data matching
2. Make complying easier and more rewarding: create disincentives for not complying
3. Aggressively pursue abusive preparers, agents, and promoters
4. Understand and attack offshore and other complex financial transactions designed to conceal tax liabilities
5. Convey positive messages about tax compliance and its benefits to society.

The FTB has provided the following overview of their strategic plan to address the tax gap.

> The plan is intended to address the persistent portion of California's estimated $6.5 billion tax gap, which endures despite the successful nature of the FTB's enforcement programs and all of the efforts that the department has undertaken over the years to close the tax gap.
>
> While we will never completely close the tax gap, we do believe that a more comprehensive, strategic approach will be most effective in reducing the tax gap. This approach includes giving proper weight to actions that increase taxpayers' willingness to correctly report and pay their tax liabilities as well as to discovering new ways to detect and control tax cheating.
>
> FTB staff met with the Executive Officer's Advisory Board March 1 to get input on the draft plan. We are revising the document to incorporate their input and expect to forward a draft to the Franchise Tax Board in April. It is expected that the Board will take action on the plan at its next scheduled meeting. For now we would like to provide you with the following general information regarding our strategic plan:

- The plan is organized around the primary causes of the tax gap, goals for addressing the primary causes, and initiatives to achieve those goals.

- The plan is balanced between "soft" and enforcement – oriented approaches. “Soft” approaches may include increasing taxpayer confidence and reducing burden and complexity, while enforcement approaches may include efforts to collect data to detect non-compliance and actions to compel payment and enforce penalties.

While current research and experience indicate that the actions proposed in the plan are the most promising for making significant inroads into the tax gap, we currently do not have enough information to quantify the effects that the plan will have. An important element of the draft plan is to undertake the research needed to develop the quantitative data needed to measure our overall progress and the impact of the specific initiatives in this plan.

B. Combating Abusive Tax Shelters
A key tactic in addressing the tax gap is identifying and closing down abusive tax shelters.

As part of an Assembly Revenue and Taxation Committee held last spring, the FTB prepared a list of ideas to curb the promotion and existence of abusive tax shelters. These ideas originated with FTB staff and have not been approved by the FTB Board.

1. Codify the Economic Substance Doctrine.
2. Modify the penalty for aiding and abetting a penalty.
3. Suspend or revoke professional license of CPA or attorney for promoting or aiding or abetting an abusive tax shelter.
4. Amend the California False Claims Act.
5. Post on FTB web site names of firms issuing abusive tax shelter opinion letters.
6. Require abusive tax shelters to be registered securities.
7. Modify the accuracy-related penalty to narrow the "reliance on preparer defense."
8. Conform to Federal Law on Circular 230.

STAFF RECOMMENDATION: Request the FTB briefly explain these abusive tax shelter ideas, identify those that merit immediate action, and the status of each measure in the legislative process (as applicable).

BCP Regarding Legal Resources to Address Abusive Tax Shelters

A budget change proposal approved by the FTB Board in September 2005 but not included in he Governor’s Budget sought 11 legal department positions and $1.4 million to address anticipated abusive tax shelter related workload.

This request was intended to enable the department to meet the statutory obligations of Chapter 656, Statutes of 2003 (SB 614, Cedillo), which established penalties for marketing abusive tax shelters and Chapter 654, Statutes of 2003 (AB 1601, Frommer), which enacted a comprehensive set of changes that increased penalties and enhanced FTB's ability to pursue businesses associated with abusive tax shelters.

The BCP was denied last fall based on an uncertain workload. Since that time, workload data has become available that suggests not only the need for budget year resources to meet the statutory obligation and combat abusive tax shelters, but in the current year as well. Specifically, the FTB has learned that the curbing abusive tax shelter schemes requires the application of legal resources earlier on in the process than previously thought. Furthermore, these positions are needed to enable the FTB to meet its goal of issuing a finding on a individual or business protest within 33 months and prevent a backlog in that system.

STAFF RECOMMENDATIONS: Request the FTB identify and report on the staffing needs to meet the statutory requirements of SB 614 and AB 1601, while limiting the resolution of protests to 33 months or less.

C. Measures to close the Tax Gap (LAO Issue)

The LAO has raised other issues regarding FTB's tax gap closure efforts, noting that more steps should be taken to close the tax gap.

LAO Comment:
Additional Steps Could Be Taken. Although some steps have been taken by FTB to reduce the tax gap, it remains a significant problem for the state. Not only does the continuation of the tax gap produce an ongoing revenue drain for the state, but continued or increased noncompliance can have a corrosive impact on the viability of the tax system itself. Although FTB is continuing its existing tax compliance efforts, the administration has proposed no new tax gap initiatives. In addition, the department has not provided the Legislature with the required supplemental report on withholding on payments to independent contractors that was due December 1, 2005. (The absence of withholding from, or adequate reporting of payments made to, independent contractors constitutes a significant portion of the tax gap.) The $200,000 appropriation for this study was vetoed by the administration, but the study requirement remains and FTB staff have identified aspects of the study that can be accomplished using existing resources.

There are additional steps that FTB could take that would enhance its tax compliance and enforcement efforts. Some of these measures-such as a combined use tax and income tax audit program, investigations of questionable wage withholding, and pursuing misdemeanor cases of noncompliance-could generate additional revenues in the short term. Other components-such as increased data collection, maximizing audit links to the state's other tax agencies (BOE and EDD), and examining the expanded application of withholding-would generate additional revenues in the future.

Recommendations. In view of the magnitude of the tax gap, and the importance of a fair and efficient tax collection system to the state, we recommend that the Legislature direct FTB to report on the costs and revenues associated with a misdemeanor filing enforcement program, combined use tax and income tax audit program, and investigations of questionable wage withholding. We also recommend that FTB report on the status of its response to the legislatively required report on independent contractor withholding.

STAFF RECOMMENDATIONS: As described above, request the FTB report at budget hearings on:

1. Costs and revenues associated with
    a. A misdemeanor filing enforcement program,
    b. Combined use tax and income tax audits,
    c. Investigations of questionable wage withholding

2. The status of the required report on independent contractor withholding that was due to the Legislature last year.

D. Board of Equalization BCPs

Three BOE proposals to curtail the tax gap are estimated to generate approximately $50 million. If approved, these proposals would enable the BOE to:

- Review bills of lading and other documents filed at agricultural inspection stations and compare with sales taxes ultimately paid.   Anticipated revenues are $7.4 million.
- Recoup state tax revenues on tobacco sales made on the Internet by out of state sellers. Anticipated revenues are $33.8 million.
- Expand identification and register entities who are operating in California without a seller's permit. Anticipated revenues are $12.6 million.

These three proposals are discussed below. It should be noted that proposals to mount a public awareness campaign on the payment of use tax and commission a "discovery team" to root out new sales tax evasion techniques were either rejected by the Board or by the Administration. With budget year revenues of approximately $50 million from the BOE, clearly there is still more to do in making headway against the $1.4 billion sales and use tax gap.

1. BCP: Agricultural Inspection Station Leads

The Board of Equalization requests 16 two-year limited term positions and $1.4 million ($811,000 General Fund) in 2006-07 and $1.5 million ($828,000 General Fund) in 2007-08 to conduct a pilot program to detect and identify property being brought into California via a California Food and Agriculture and California Highway Patrol inspection station without paying sales and use taxes. Expected revenues from this project are $7.43 million in 2006-07 (a five-to-one benefit-cost ratio), growing to $8.91 million in 2007-08 (a six to one benefit-cost ratio).

A five-year pilot of this pilot project was performed recently (within existing resources), which produced 1,210 leads referred for further investigation. Of those 1,210 leads, 500 were ultimately tax-producing leads and generated $4.7 million for the state, an average of $9400 per lead. Based on a broader application by newer staffer over a shorter period of time, this proposal includes promising (if conservative) revenue estimate of $3000 per lead.

STAFF RECOMMENDATION: APPROVE as budgeted.

VOTE:

2.   BCP: Enforcement of Consumer Purchases of Tobacco Products from Out of State Sellers

The Board of Equalization requests 8.2 positions on a one-year limited term basis and 12.3 positions on a two-year limited term basis and $1.9 million ($216,000 General Fund) to recoup state tax revenues on cigarette and tobacco sales on the Internet and mail orders by consumers. These positions will be used to process a backlog of newly obtained sales data from primarily Internet sellers of cigarettes and tobacco products. The BOE faces a sales invoice backlog and delivery records data backlog of approximately 587,000 documents. This backlog is estimated to take three years to complete. The BOE anticipates requesting additional resources later as the remaining workload is better identified.

The BCP estimates revenues of $33.8 million ($3.9 million General Fund) in the budget year from this activity. This constitutes a 17.8 to 1 benefit-cost ratio when special funds are included. For the General Fund-funded positions the benefit-cost ratio is 18 to 1.

This proposal reflects a DOF-described "long-term downward trend" in cigarette tax revenues. The Board of Equalization reflects this trend as a three percent annual decline in tax-paid distributions of cigarettes based on those trends. If additional taxes on cigarettes and tobacco are enacted, revenues will likely be higher as tax evasion grows.

STAFF RECOMMENDATION: APPROVE as budgeted.

VOTE:

3. BCP: Retail Licensing Enforcement
The Board of Equalization requests 14.5 positions two years limited term and $1.6 million ($1.1 million General Fund) in 2006-07 and $1.5 million ($950,000 General Fund) in 2007-08 for a pilot project to identify and register businesses that sell tangible personal property without a seller's permit. These resources will enable the BOE to identify and register entities who are actively engaged in business in California and selling tangible personal property without a seller's permit. This proposal will attempt to validate the voluntary change in registered businesses and increased revenue (i.e. indirect compliance) resulting from the licensing sweeps program.

The BOE estimates that revenues will be $12.6 million General Fund for both years of the pilot, a 7 to 1 benefit-cost ratio in the first year and 8.6 to one benefit-cost ratio in the second.

The proposal is for a two year pilot in one metropolitan area still to be determined. With only 16 approved positions, the Investigations Division must start the pilot in only one district. The BOE reports that the start-up delay will be limited as this activity requires little training and is a sought after assignment for experienced auditors.

For businesses who comply with the law, under this proposal there should be **no** interaction with the BOE investigator. Retail licenses are required to be posted publicly. If they are not, the visit should last as long as it takes the storeowner to show the license.

Staff Comments:

Revenues are probably higher than estimate. The BOE assumes the minimum in taxable sales ($120,000) from all businesses they will encounter. However, the average business revenue in two possible pilot locations, Los Angeles and the Bay Area, is at least $400,000.

Furthermore, the BOE does not account for audit leads that will be generated by the findings of front line auditors. For example, if a licensee's sales tax returns indicate that 80 percent of their sales are sales of exempt food products but upon inspection our staff notes that over 80 percent of the inventory is products that would be subject to tax, an audit lead will be created. That lead will be forwarded to the district office to conduct an audit because of the high likelihood of an understatement of sales taxes.

Finally, the revenue estimate of $12.6 million is based on a three percent noncompliance rate found among retailers during the three initial pilot projects. However, four subsequent pilot projects discovered a *higher* noncompliance rate of between five and seven percent. This higher rate would likely affect the overall revenue estimate, as well as the staffing need.

Seven pilots suggest statewide rollout needed. The BOE has conducted a total of seven pilot studies on retail license noncompliance. The pilots have involved everything from targeted sweeps to investigations involving over 700 businesses in three communities. The communities of central Fresno, south Stockton, Sacramento downtown Oakland, northern San Jose, downtown Santa Clara, and central Gilroy have all participated in the pilot projects. The seven pilots suggest there are somewhere between 30,000 and 70,000 unlicensed retailers operating in California.

A larger rollout of retail license sweep activity would be consistent with the most recent retailer enforcement measure undertaken by the BOE: inspections of cigarette and tobacco products licenses. Currently, the BOE's Investigations Division has 40 inspectors who conduct approximately 10,000 inspections per year. BOE has a record of approximately 40,000 licensed retailers, distributors, and wholesalers. Under the Cigarette and Tobacco Licensing Act, inspections have increased voluntary compliance and revenues by over $115 million since inception. Establishment of a statewide cigarette and tobacco licensing program sets a precedent for rolling out a statewide retail licensing enforcement program.

Based on the information provided, approval of the proposed BCP would delay a practical and proven response to bridge the tax gap and enable scofflaws to further flout state law for their own unfair economic advantage. Funding a statewide proposal could help level the economic playing field in *every* region, not just one. Furthermore, statewide implementation in a variety of areas will enable better data gathering on the actual indirect compliance effect and allow the Administration and Legislature to make better decisions with regards to future resource allocations for this program.

STAFF RECOMMENDATIONS: HOLD OPEN and request the BOE report on the following:

1. Updated revenue figures based on the higher revenue findings of the four subsequent pilot projects.

2. A description of costs, staffing needs, and revenues for a statewide retail licensing enforcement rollout where the BOE currently has investigation divisions: Sacramento, Oakland, San Jose, Fresno, Norwalk, Riverside, Culver City, Van Nuys, and San Diego.

3. Other considerations for the Legislature regarding the appropriate level of funding for this activity.

E. Other Measures to Address the Sales and Use Tax Gap (LAO Issue)

The BOE and the administration's tax gap-related efforts represent reasonable policy initiatives. However, the proposals put forth by the administration, while commendable-represent piecemeal approaches to specific tax gap-related activities. Additional proposals were approved by BOE but were not chosen for funding by the administration. One of these activities-so-called "discovery audits"-is an important component of an effective audit program and an effective means of addressing the tax gap through systematic changes in tax administration. Improving audit selection-through discovery audits or other improvements in audit selection methods-represent more fundamental approaches to dealing with noncompliance.

The FTB-the state's tax agency responsible for administering income taxes-has long devoted resources to discovery audits, the objective of which is to get a better sense of potential and emerging areas of tax noncompliance. Unlike other states with large SUT programs, however, BOE devotes few resources to audit selection to help determine the highest return audits. In contrast, Arizona, with a substantially smaller population, has in the past delegated five staff specifically to audit selection.

We would also note that the BOE has identified use tax noncompliance by service industry businesses as a major contributor to the tax gap. For example, many professional offices and consulting firms use equipment and furniture purchased from out of state, but fail to pay the use tax owed to California on such items. As we indicated earlier, this may be due to either inadvertent or willful actions on the part of businesses. Despite the importance of this sector as a contributor to the tax gap, neither the BOE nor the administration has put forth a proposal to address it.

LAO Recommendations:
We recommend that the BOE report to the Legislature at budget hearings regarding potential additional tax gap programs, as shown below. Specifically, BOE should identify policy issues along with an estimate of administrative costs and additional revenues for the following initiatives:

- ***Audit Selection Improvements.*** Reallocate existing resources to improve audit selection methodology.
- ***Discovery Audit Program.*** Initiate discovery audit program for the SUT in order to improve audit selection.
- ***Services Business Education.*** Design education program for certain service businesses regarding their use tax obligations.
- ***Targeted Use Tax Audits.*** Establish pilot program of targeted audits for selected service industries regarding use tax compliance.
- ***Business Personal Property Reporting Requirement.*** Expand the form and require businesses to file personal property forms with county assessors and BOE.

STAFF RECOMMENDATION: Request the BOE report on the tax gap measures identified in the LAO analysis, including administrative costs and anticipated revenues for the measures described.

2. TAX DATA CONSOLIDATION AND SHARING

The Legislative Analyst's Office, California Performance Review, and other organizations have in recent years proposed that the tax agencies improve data sharing through IT investment and interagency agreements. With the growing amount of tax information stored electronically and the similarity and interconnectedness of the data collected, the state must pursue greater collaboration among tax agencies as a means to simplify taxpayer interactions with the agencies and reduce noncompliance. This section looks at online collaboration, data matching at the BOE, and electronic technologies.

Online Collaboration

Online collaboration can occur in several forms. For the taxpayer, consolidation can mean easier navigation of the web sites of the three main taxing agencies, BOE, FTB, and the Employment Development Department (responsible for payroll taxes). Last year a team was formed to design a one-stop shop for taxpayers: www.taxes.ca.gov,. This web site is where taxpayers can go to sort out who to contact with tax questions. More recently, BOE, EDD, and FTB met to discuss the future vision for taxes.ca.gov. and redesign the site into a "consolidated" site where payments can be made.

Beyond adding online payment capabilities to the consolidated site, staff notes that the web portal could be further expanded to accommodate taxpayers attempting to figure out where to seek a license (California's tax collectors and licensing agencies include not only FTB and DMV, but also the Employment Development Department, Department of Motor Vehicles, Department of Alcoholic Beverage Control, among others).

Data Matching at the BOE

The BOE has recently begun using the FTB's Integrated Nonfiler Compliance Database (program described above) as a resource to improve audit selection and identify unpermitted sellers.

The BOE also shares and receives information from FTB, EDD, IRS, and cities for data matching purposes. BOE's Technology Services Division (TSD) operates matching programs that have been built over the years to utilize a number of the data sources identified in the State and non-State data acquired tables. However, no staff are identified specifically to perform this function and when ad hoc requests for matching and analysis reports are submitted to TSD, they must compete with other priorities prior to be assigned to staff to complete.

The TSD faces an increasing number of matching and analysis requests. If this workload continues to grow, a specialized unit may need to be formed to deal specifically with automated analysis of external data and ad hoc reporting. The FTB has a dedicated data matching unit. Such a unit at BOE could work to leverage the Integrated Non-Filer Data Warehouse at FTB and add to its value as a state resource. Additional staffing would be needed to create this as a permanent function.

Electronic Technologies

The LAO has observed that the application of electronic technologies to tax administration has expanded rapidly in the last decade and offers opportunities for significant operational efficiencies and state savings.

LAO Comment: As we indicated in our January 2005 report, *Tax Agency Consolidation: Remittance and Return Processing*, the Employment Development Department (EDD) and FTB have increasingly converted to electronic technologies in the filing of tax returns and remittances as well as the processing of this documentation.

The advantages of shifting to electronic remittances and returns are significant. From the taxpayers' perspectives, using electronic filing can minimize record keeping requirements, increase filing accuracy, and reduce costs in the long term. From tax agencies' perspectives, electronic technologies decrease processing time, reduce storage costs, minimize personnel requirements, improve data accuracy, and facilitate sharing of information for enforcement and compliance purposes.

Processing Costs Are Lower for Electronic Processing. The processing costs associated with electronic registration, returns, and remittances are far below those for paper documentation. For example, FTB estimates that 4,800 electronic remittances can be processed for each direct staff hour. For paper submissions, only 65 remittances can be processed for each direct staff hour. At EDD, just over 40 percent of the volume of remittances is by paper, but these remittances consume 80 percent of related staff time. Similarly, paper tax filings represent 50 percent of the total, but use 85 percent of processing-related resources. Additional savings typically occur because the electronic submissions of remittances and returns are more accurate than their paper counterparts.

Work on Electronic Technologies Should Continue. Although BOE has made some efforts in the electronic technologies and automation area, there are still substantial additional improvements that could be made. For instance, while the agency receives about 60 percent of total SUT payments through electronic funds transfer, electronic tax filings represent only a small share of total tax returns. The BOE implemented electronic filing for single-location taxpayers in September 2005. It plans to extend the e-filing technology to businesses with multiple locations in the future. In addition, in its report to the Legislature, "Field Office Operations," the agency indicated that it is developing additional electronic interfaces through the Internet, including registration; petitions; and claims for refund, account balances, and account maintenance.

Our largest concerns with BOE's plans center on the length of time that is projected for the various components to come "on line." For example, extending e-filing to businesses with multiple locations is not expected until 2008. The additional components discussed above as part of field office operations are not planned for implementation until well after that date.

Investing in electronic technologies is likely to have substantial payoff over the medium- to long-term in terms of budgetary savings, due largely to reduced staffing requirements as well as the number of required field offices. In addition, the technology is likely to have significant benefits for coordination and information sharing among the tax agencies for enforcement and compliance purposes. Finally, a shift to electronic filing will simplify filing requirements and result in reduced costs for taxpayers.

While converting to electronic filing and processing would result in annual savings for the state in the medium- to long-term, it is also important to note that investing in electronic technologies would likely require up-front investment. Given the complexity of the issues associated with electronic filing and processing-as well as the budgetary impact-we recommend that BOE report at budget hearings regarding its near- and medium-term goals regarding this technology, including estimates of related savings and costs.

Staff Recommendation: Request reporting as described below:

1. The BOE and FTB report on expansion plans, timelines, costs and opportunities for online payments and licensing on the www.taxes.gov web site.
2. The LAO, BOE, and FTB report on electronic data sharing measures currently underway and planned, as well as resources necessary to facilitate enhancements, including a dedicated data matching unit at the BOE.
3. The BOE report on initial findings and revenue possibilities for using the INC database.
4. The Board of Equalization report regarding the status of efforts to convert existing registration, tax filings, and manual processing to electronic systems, together with estimates of related savings and costs.
5. The LAO report on the preliminary findings of their study on data consolidation measures between the tax agencies (BOE, EDD, and FTB) and the federal government.

3. CREDITS, DEDUCTIONS, EXCLUSIONS, AND EXEMPTIONS

Overview
Credits, deductions, exclusions, exemptions are tax breaks given to certain business entities or groups of people with the assumption that larger societal or economic benefits will be achieved. Regular and ongoing review and evaluations of credits, deductions, exclusions, and exemptions could make the state's tax system more efficient and effective—both at achieving economic and social goals and raising revenue.

California's credits, deductions, exclusions, and exemptions encourage behavior among a broad range of entities, from rice straw growers to renters and students to stock owners. These tax credits may be particular to California or they may also be "conforming" credits, deductions, exclusions, and exemptions that extend federal credits, deductions, exclusions, and exemptions to the state level (e.g., the student loan interest deduction). They may be targeted to relieve undue fiscal stress from one group of people or incentives a particular behavior for another.

The most common concerns arising from the use of credits, deductions, exclusions, exemptions are that they may necessitate an increase in tax rates or a cut in expenditures, complicate the tax code, induce undesirable behavior, reduce policy flexibility, or provide windfalls to targeted groups who no longer merit the benefit. Alternatives to credits, deductions, exclusions, exemptions, include reducing general tax rates, mandating a program, direct government regulations, and direct expenditures. [2]

The following three tax credits exemplify the complexity and unintended consequences sometimes caused by credits, deductions, exclusions, exemptions. The first credit, the Teacher Retention Tax Credit, is proposed for suspension in the budget year. The second two, enterprise zones and the Child and Dependent Care Exemption Credit, have been analyzed by the Legislative Analyst's Office.

1. Teacher Retention Tax Credit
The Governor's Budget proposes to suspend the Teacher Retention Tax Credit for one year. The teacher retention credit was enacted in 2000 and grants a tax credit to credentialed teachers ranging from $250 to $1,500 per year. Teachers with more years of service receive a higher tax deduction. This credit was suspended in 2002 and again in 2004 and 2005. Expected savings from this suspension are $210 million.

Staff Comment:
The effect of this credit in keeping teachers in their profession is unclear, in part due to the recurring suspensions of the credit but also due to the lack of research. However, according to a recent Public Policy Institute of California study, data from the New Teacher Administrative Records (NTAR), a database that uses annual credentialing information from the California Commission on Teacher Credentialing and employment information from the California Employment Development Department, can help the state evaluate teacher retention efforts through tax credit incentives.

While the analytic support offered by the PPIC on this credit is important, it is the State's responsibility to ensure tax credits (and exclusions, etc.) are appropriately assigned and conform to the intent with their establishment.

STAFF RECOMMENDATION: Request the DOF report on the fiscal and policy rationale for this proposed suspension.

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[2] Franchise Tax Board, *California Income Tax Expenditures: Compendium of Individual Provisions,* 2005.

2. Enterprise Zones

The enterprise zone hiring credit has merited increasing scrutiny this year as evidence mounted that some zone boundaries do not include truly economically depressed areas. Policy committees are considering legislation to reform eligibility criteria for the payroll credit (among other problems) to ensure that businesses only receive credits for truly qualified individuals.

In 2005, SB 6 (Ducheny) and AB 1361 (Dymally) proposed extensions to Enterprise Zones (EZs) in California subject to meeting specified criteria. The measures did not address many of the problems with EZs that have been documented by the FTB, the Department of Housing and Community Development (HCD), and publicized by the Contra Costa Times, among others. Senator Machado, as chair of the Senate Revenue and Taxation Committee (which held SB 6 and AB 1361 on its suspense file) developed a proposal to enact meaningful reforms to the EZ program to ensure that the State maximizes its investment in the program and targets benefits to genuinely economically challenged areas and individuals, while including the ability for EZs to seek extensions subject to meeting certain conditions. These reforms are now under consideration in Senate and Assembly policy committees.

LAO Issue:
Origins of Enterprise Zone Incentives. Since the 1980s, the state has made available to expanding or relocating businesses in certain areas of the state a number of special tax programs. These tax incentives are available to businesses operating in particular areas of the state that have been designated as:

- Enterprise Zones (EZs).
- Manufacturing Enhancement Areas (MEAs).
- Targeted Tax Areas (TTAs).
- Local Military Base Recovery Areas (LAMBRAs).

While the exact characteristics of these designated areas vary somewhat, in general, they were selected due to the challenging socio-economic characteristics that prevailed at the time of their establishment. The EZs were established in 1984, the MEAs and TTAs in 1988, and the LAMBRAs in 1993. Until the program expired, the state also had Los Angeles Revitalization Zone designated areas as well.

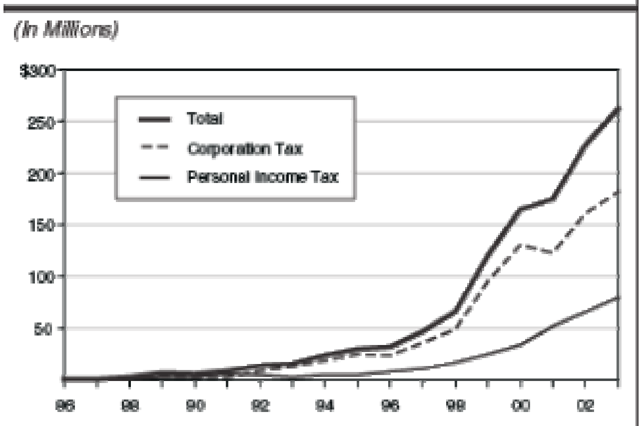
The goals of the various tax incentives are to increase private investment in particular designated areas. In attracting or stimulating such additional investment, the programs are intended to generate additional economic activity through the creation of new employment opportunities. The programs are also intended to create incentives for businesses to hire hard-to-employ individuals who might otherwise be unemployed.

The principal program among those described above is the EZ designation (the other designations indicated are relatively few in number and have a minor fiscal impact on the state). There are currently 42 separate EZs with 56 separate locations in California. In 2006, 18 of these EZs will expire unless their designated status is renewed. Another 13 expire in 2007 and 2008. The remaining 11 expire between 2009 and 2012.

Usage of Programs Has Expanded. The use of the various incentive programs has expanded substantially since they were first started. Ten years ago, the total tax incentives claimed for all programs were in the low tens of millions of dollars; however, by tax year 2003, the direct revenue loss to the state had grown to $318 million. In terms of direct revenue losses, this makes this type of business-oriented tax incentive the state’s largest after the research and development tax credit.

Figure 3

Enterprise Zones Use of Hiring and Sales Tax Credits Expanding



Geographic Tax Incentives May Not Be Effective. Research findings regarding the impacts of geographic tax incentives-such as the EZ credits-in general are rather mixed. Overall, the dominant strain of research indicates that the response of businesses to tax incentives of this type is likely to be rather small, and the programs result in significant revenue losses relative to the benefits received. Most research indicates that these types of incentives have little impact on the overall level of economic activity or employment.

However, the research also indicates that geographically based tax incentives-while unlikely to affect *overall* economic growth in the state-can have an impact on the *distribution* of economic activity across the state. Such influence on the location of economic activity is likely to be strongest within a metropolitan area, with the impact declining as the size of the area increases.

State Needs to Step In. The hiring credit associated with the EZ designation is a program that relies on state and local cooperation and coordination. As indicated previously, local governments and agencies provide direct day-to-day administrative support for the program. At the state level, FTB, EDD, and HCD are all involved in some aspects of the program. For example, EDD maintains much of the data regarding the eligibility status of prospective employees, while HCD provides general oversight of the EZs and conducts programmatic audits. The FTB is responsible for reviewing the tax returns of employers claiming the credit and for conducting any appropriate audit activity. Given the multiple agencies and levels of government, however, the roles, responsibilities, and authority of each of the parties have not always been completely or clearly defined.

In particular, in its compliance-related activities, FTB has uncovered situations where a claim for a tax credit may not be warranted due to ineligibility of either the employer, or the employee for whom the credit is claimed. For example, FTB has examined the documentation for certain employees and found that there were significant violations of eligibility requirements. However, FTB's authority to continue such audits was challenged by an administrative appeal to BOE (the agency responsible for income tax appeals).

Some steps are being taken to address the administrative issues discussed above. Regulations are now in the process of being formulated and adopted by HCD-an action that might eliminate or reduce many of the ambiguities and uncertainties associated with the administration of the program. In addition, the Legislature is in the process of revisiting the program and considering statutory "fixes" to some of the problems associated with it. Finally, based on a recent BOE decision, FTB can now proceed with its auditing activities regarding the validity of the vouchers associated with some of the hiring credit claims.

This BOE decision will allow FTB to “go behind” the voucher and assess the adequacy of the documentation and validity of the claim. Given the level of tax credits claimed-as well as a substantial carryover of earned but unclaimed credits, the BOE decision could result in a significant increase in audit and other compliance-related activities by FTB. These would relate not only to employee eligibility, but also to the location of the employer, the proportion of employee activities carried out in the EZ, as well as other statutory requirements of the program.

LAO Recommendation. Given the magnitude of the revenue impacts of the EZ hiring credit, the administrative issues that have emerged, and the likelihood that the program will continue in some form, we recommend that the Legislature direct FTB to report at budget hearings regarding: (1) the current level of audit activity of tax credit claims, (2) the level of anticipated audit-related workload activities in the future, and (3) the adequacy of current audit resources available for funding these activities.

Staff Comment:
A January 31, 2006, BOE hearing appealing the Deluxe Corporation case enabled the FTB to audit the claims for the EZ credit to a greater degree than previously thought. This decision empowers the FTB to more comprehensively pursue inappropriate applications of that credit.

The original purpose of the Enterprise Zone Credit was to facilitate employment in low-employment areas. Through policy hearings, the Legislature will evaluate how well that intent is truly being met.

STAFF RECOMMENDATION: Request the FTB report on:
1. Collaborative efforts with HCD to identify and deter ineligible vouchers.
2. The current level of audit activity of tax credit claims
3. The level of anticipated audit-related workload activities in the future
4. The adequacy of current audit resources available for funding these activities.

3. Child and Dependent Care Expense Credit (LAO Issue)

Background Regarding the Program. Since January 1, 2000, California has made available to taxpayers with children or other dependents a child and dependent care expense credit (CDCEC) equal to a percentage of their expenses associated with the care of such individuals. The purpose of the credit is to partially defray expenses incurred by taxpayers who must care for children or other dependents so that the taxpayer can be employed or seek employment.

Fraud Is a Growing Problem. According to the FTB, the increase in the refundable portion of the CDCEC has coincided with an increase in the amount of fraudulent claims. Although the actual amount of fraud is unknown, the FTB indicates that the dollar amount of fraudulent claims detected increased from less than $1 million in 2001 to close to an estimated $12 million in 2004. Similarly, the average amount of fraud per fraudulent return increased from $425 to $588 during the period. The FTB estimates there will be a total of $51 million in fraudulent claims over the next three years-an annual average of $17 million.

In 2005-06, the FTB is devoting 43 personnel-years (PYs) to the administration of the CDCEC. Most of these resources (33 PYs) are devoted to fraud detection. This more than doubles the staffing for fraud detection deployed by the department in 2004-05. The FTB also indicates that its fraud efforts for the 2005 tax year are focused on taxpayers earning less than $20,000. This segment of claimants has been the focus of the FTB fraud efforts due to the difficulty in collecting remittances from lower-income taxpayers in the event that an erroneous refundable credit payment is made.

While virtually all the CDCEC claims from lower-income taxpayers ($20,000 AGI or lower) are for the refundable part of the credit, most of the revenue losses associated with the refundable portion of the credit are generated by taxpayers in the $20,000-to-$50,000 AGI category. It should also be noted that while the refundable portion represents the majority of the total amount of the credit, whether the credit amount is refunded or serves to reduce tax liabilities is immaterial from the state's revenue perspective.

The ability of taxpayers to file fraudulent returns may be in part due to the lack of independent third party reporting of actual expenses undertaken by the taxpayer. For example, to file a claim, the taxpayer fills out the FTB credit form, but supporting documentation (such as copies of birth certificates, social security numbers, or notarized statements from the care provider) is only requested when deemed warranted by the tax agency.

There are, however, additional requirements that could be imposed on claimants to address fraud concerns. These include:

- Taxpayers providing copies of care-provider payment documents.
- Care providers filing tax returns or annual statements.
- Allow the use of only licensed care providers.

In addition, taxpayers who file fraudulent returns could be disqualified from claiming the credit for an extensive period of time in the future.

LAO Recommendations. In view of the fraud problems that have been associated with the CDCEC, we recommend that the Legislature direct FTB to:

- Report on Its Fraud Efforts. The FTB should report on the impact of targeting its fraud efforts to focus on all areas of fraud prevalence, including the refundable and nonrefundable portions of the credit.
- Require Additional Documentation. To preserve the fairness and integrity of the tax credit program, we recommend that the Legislature direct FTB to require additional documentation from taxpayers in order for them to qualify for the credit. We further recommend that FTB report at budget hearings regarding the costs and revenues associated with additional documentation options.

Staff Comment: In considering how to ensure the credit is appropriately provided, the FTB faces a choice between auditing tax practitioners who submit these requests, auditing applicants, and requiring better documentation from applicants. FTB has informed staff that they intend to focus their efforts on tax practitioners.

STAFF RECOMMENDATIONS: Request the FTB report on:
1. The impact of targeting its fraud efforts to focus on all areas of fraud prevalence, including the refundable and nonrefundable portions of the credit.

2. The LAO recommendation that additional documentation from taxpayers be provided in order for them to qualify for the credit and the costs and revenues and costs associated with additional documentation options.

TAX CREDIT, DEDUCTION, EXCLUSION, AND EXEMPTION REPORTING

The examples provided above suggest that credits, deductions, exclusions, and exemptions can, over time, be used in a manner inconsistent with original intent and that the Legislature should explore means to exercise greater oversight of credits, deductions, exclusions, and exemptions.

As more credits, deductions, exclusions, and exemptions are added to the tax code and the economy evolves, analysis of the efficacy of each becomes necessary. Credits, deductions, exclusions, and exemptions reflect incentives for a certain business, industry or behavior at a certain point in time and may become less valuable overtime, leading to a significant tax incentives for a specific entity with little economic impact. In addition, they can complicate the tax code by subsidizing grant like programs and ultimately reduce policy flexibility, hindering the Legislature and Administration from taking corrective action or simplifying tax code. Credits, deductions, exclusions, and exemptions, by their very nature, can increase the general tax rate necessary to fund the operations of the state. As they grow, the state increases revenue volatility by tightening its tax base.

Current reporting on credits, deductions, exclusions, and exemptions is provided by the BOE, FTB, and DOF. The BOE prepares a *Sales and Use Taxes: Exemptions and Exclusions* report that provides a brief description of sales and use tax credits, deductions, exclusions, and exemptions and an estimate of revenue lost, if readily available. The BOE does not have resources to estimate revenue loss for all sales and use tax credits, deductions, exclusions and exemptions. The FTB periodically prepares a *California Income Tax Expenditures Compendium of Individual Provisions*, which provides a more detailed description of the personal income and corporation credits, deductions, exclusions, and exemptions with revenue known revenue losses. Known revenue losses in FTB's 2005 report were based on 2001 data. DOF has a statutory requirement to report on credits, deductions, exclusions, and exemptions as specified in Government Code Section 13305:

> *13305. The department shall provide an annual report to the Legislature on tax expenditures. The report shall include each of the following:*
> *(a) A comprehensive list of tax expenditures.*
> *(b) Additional detail on individual categories of tax expenditures.*
> *(c) Historical information on the enactment and repeal of tax expenditures.*

The report required was last provided in the 2003-04 fiscal year. DOF did not provide a 2004-05 report. DOF reports that the 2005-06 report is currently under review.

That latest report from DOF (2003-04) identifies annual state revenue losses of approximately $24 billion from credits, deductions, exclusions, and exemptions. This includes:

- Personal Income Tax: $19.2 billion
- Sales and Use Tax: $200 million
- Corporation Tax: $4.3 billion

Additionally, the credits, deductions, exclusions, and exemptions for property tax and for the local share of sales and use tax are estimated to cost $7 billion annually. These credits, deductions, exclusions, and exemptions matter to the state because they create a fiscal cost to the state in terms of backfilling Prop 98 funding. Taken together, **2003-04 revenue losses from credits, deductions, exclusions, and exemptions were $31 billion.**

Given the magnitude of revenue loss, the Legislature has recently considered legislation to expand reporting. In one recent piece of legislation, AB 168 (Ridley—Thomas, 2005) would have required biennial reporting on tax credit, deduction, exclusion, and exemptions programs exceeding $25 million, as funds were available. It also required state officials to analyze whether tax breaks stimulated the economy, not simply how much they cost in revenue. That bill was vetoed with the following message:

> *The Department of Finance and the Legislative Analysts Office currently have broad authority to review and report tax expenditures to the Legislature. This bills restatement of the existing tax reporting requirements is redundant and unnecessary.*

Recognizing the inconsistent reporting, as well as the tens of billions of revenue associated with these programs, the Legislature may wish to devote additional attention to credits, deductions, exclusions, and exemptions, through the following three objectives: (1) understanding their intentions and implications, (2) gaining better access to information, and (3) revising and increasing reporting requirements. Suggested measures to achieve those three ends are described below.

Objective #1: Understanding the intentions and implications of credits, deductions, exclusions, and exemptions.

This objective may be met through an annual report by the LAO on the policy basis including the intent and practical success of current credits, deductions, exclusions, and exemptions. This would include an analysis of short and long term economic impact including whether there is increased economic output associated with the program. To address workload concerns, the LAO would report on a five-year cycle: No less than one fourth of the total identified tax PIT and CT expenditures would be reported for each of the first four years. In the fifth year, the sales and use tax credits, deductions, exemptions, and exclusions would be evaluated.

Objective #2: Gaining better access to information

This objective may be met through joint policy and budget hearings held during the interim period to review the credits, deductions, exclusions, and exemptions that were analyzed by the LAO. These hearings would cover:

1. Metrics for meeting the statutory objective of the expenditure.
2. If no clear statutory objective exists, suggested legislative changes to establish an objective for the credit, deduction, exclusion, and exemption program.
3. Suggested alternative policy measures to achieve that goal.
4. BOE and FTB testimony on the rationale for credits, deductions, exclusions, and exemptions that may no longer fulfill their intended purpose.
5. Feedback estimates (the amount of direct revenue caused by additional economic activity stimulated by the tax credit, deduction, exclusion, and exemption.
6. The feasibility of repealing, establishing a sunset, or continuing indefinitely each expenditure.

Objective #3. Revising and increasing reporting requirements

This objective may be met by formalizing the reporting requirement in statute by adding a report to the to the Governor's Budget to covering:

1. Identification of all credits, deductions, exclusions, and exemptions
2. Statutory authority for each credit, deduction, exclusion, and exemption
3. Sunset date, if applicable
4. A description of the distribution of the credit, deduction, exclusion, and exemption (i.e. who uses it)
5. For corporation credits, deductions, exclusions, and exemptions, the estimated amount of gross receipts and size and type of business or industry utilizing the tax break for the most recent fiscal year.
6. For the personal income tax, estimated amount of gross receipts by income tax bracket for the most recent fiscal year.
7. Estimate of state and local revenue loss for the most recent fiscal year.
8. Description of the Legislative intent for each expenditure (if known). If not known, indication thereof.
9. The number of taxpayers affected and returns filed (as applicable) for the most recent fiscal year.

As policy tools, credits, deductions, exclusions, and exemptions should be evaluated alongside other programs in the budget. This comparison should facilitate a more comprehensive assessment in order to identify wasteful, ineffective, or outdated tax programs.

STAFF RECOMMENDATIONS:

1. Request the DOF and LAO respond to the suggestions discussed above (objectives, 1, 2, and 3), identify additional resources that may be necessary to implement these changes, and report any suggested alternatives to the proposal.

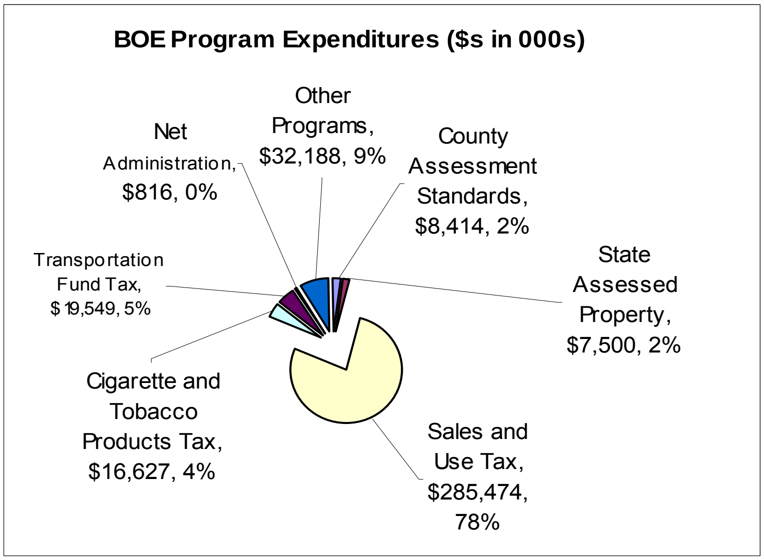
2. Request the LAO, DOF, BOE, and FTB report on the policy merits and administrative implications of sunsetting all new credits, deductions, exclusions, and exemptions as a means to review the merits of the credit, deduction, exclusion, and exemption program at the time of sunset and make an informed decision.

3. Direct staff to draft the trailer bill incorporating this discussion for consideration at a subsequent hearing.

0860 Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board, and the Employment Development Department are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. BOE also assesses utility property for local property tax purposes, oversees the administration of local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws.

The Governor's budget funds 3,802.9 positions (including 64.5 new positions) and proposes $370 6 million in total expenditures ($212.8 million General Fund).



BCPs PROPOSED FOR CONSENT

A. Valuation Factors – Biopharmaceutical and Hi-Tech Equipment
The BOE requests $263,000 General Fund and two positions for two years limited term to create and participate on a team to conduct a study in the development of valuation factor for biopharmaceutical equipment and certain computer and semiconductor manufacturing equipment. The BOE is mandated to promulgate guidance for county assessors to use when valuing property. This BCP will fund a study to resolve ongoing disputes between assessors and industry over the proper valuations for these projects. Both county assessors and industry support and will contribute to this study.

B. BCP: AB 71 Cigarette and Tobacco Products Fund Shift
The BOE requests a multiyear appropriation beginning in 2006-07 and ending in 2009-10 to respond to a funding shortfall in the Cigarette and Tobacco Products Compliance Fund. This BCP would transfer $2.4 million in 2006-07 ($276,000 General Fund), $7.4 million in 2007-08 ($854,000 General Fund), $7.6 million in 2008-09 ($877,000 General Fund), and $3.8 million ($437,000 General Fund) in 2009-10. The Cigarette and Tobacco Products Licensing Program has added approximately $65 million to the General Fund and Special Funds since January 2004.

The BOE estimates that at least $50 million in excise tax revenue will be generated by this program in coming years.

C. INTERNATIONAL FUEL TAX AGREEMENT PROGRAM
The Board of Equalization requests to spend $2.1 million in federal funds to make program changes necessary to allow the BOE to begin hosting Mexican carriers into the International Fuel Tax Agreement (IFTA). Under this arrangement, California acts as one of four border states supporting the integration of Mexican carriers, ensuring that Mexican carriers property report and pay fuel taxes in California, as well as other IFTA jurisdictions. It is estimated that these carriers will be fully integrated in seven to ten years. The federal Department of Transportation has reviewed and approved this proposal.

STAFF RECOMMENDATION: APPROVE as budgeted.

VOTE ON CONSENT ITEMS A THROUGH C:

DISCUSSION ITEMS

1. Special Taxing Jurisdictions

During 2004-05 budget development the Legislature considered measures to distribute the BOE's cost of administering fees associated with special taxing jurisdictions. A proposal to end the capped amount the BOE may receive in reimbursements from special taxing districts was not included in the final budget. Instead, the Legislature directed the BOE to report by December 1, 2004 regarding alternative methodologies by which to allocate administrative costs associated with the state and local SUT. The BOE prepared that report in consultation with DOF, the LAO, and sales tax jurisdiction representatives. The following issue lays out the findings of that study and recommends an alternative that will save $6 million General Fund and result in a simpler and understandable allocation of costs.

LAO Comment:
Sales and Use Tax Background. The sales and use tax (SUT) is levied by a number of different entities in the state. The basic state-wide rate is 7.25 percent consisting of: 5 percent General Fund, 0.5 percent Local Revenue Fund, 0.5 percent Local Public Safety Fund, and 1.25 percent uniform local rate (known as the Bradley Burns tax). In addition, in some geographic areas, optional rates approved by local voters are levied by special taxing jurisdictions (STJs). (See *P&I,* Part II, "Perspectives on State Revenues" for additional background information about the SUT.)

The BOE administers the SUT at a cost of almost $300 million annually and allocates its costs among the state General Fund and special funds, and all uniform and STJ funds. The administrative process encompasses (1) registration of taxpayers, (2) processing of tax returns and payments, (3) auditing of taxpayers, and (4) collection of delinquent taxes. Under current law, the BOE allocates its administrative costs among most of the tax components. The BOE allocates costs among the General Fund, the local uniform tax, and the STJs; however, no administrative costs are currently allocated to the Local Revenue Fund or the Local Public Safety Fund.

Special Taxing Jurisdictions Are Growing in Importance. Under current law, voters within local government jurisdictions-cities, counties and special districts-can approve special SUT rates that are imposed as an additional tax within the boundaries of a specific geographic area or STJ. The first such special tax rate was imposed by voters in the San Francisco Bay Area in 1970 as a means of providing funding support for the Bay Area Rapid Transit District.

Since that time, the number of STJs has grown rapidly, with 64 jurisdictions now levying an additional tax. In addition, a number of STJs are expected to come on line in the future. For example, there will be a net increase of six STJs beginning on July 1, 2006, and more are being considered for inclusion on the June 2006 and November 2006 ballots. The additional taxes levied by the STJs range from 1 percent by the City of Trinidad in Humboldt County to 0.1 percent for the Fresno Country Zoo Authority. However, most STJs add a rate of 0.5 percent to the existing statewide uniform rate of 7.25 percent. Under agreements made with each of the STJs, the BOE is responsible for administering the application and collection of the tax in each of the special jurisdictions.

Current Allocation of Administrative Costs. The BOE charges the General Fund, local governments, and local jurisdictions a fee for administering the local tax programs on their behalf based on current law. Current law requires the use of a "cost-allocation model" that is based on recommendations made in 1992 and 1996 reports by the Office of the Auditor General (now the Bureau of State Audits). In general, these recommendations centered on attributing costs associated with administering the taxes to the actual workload that such taxes impose on the agency. In addition, Chapter 865, Statutes of 1998 (AB 836, Sweeny) and Chapter 865, Statutes of 1999 (SB 1302, Senate Committee on Revenue and Taxation), required that such administrative fees be capped at a specified proportion of revenues.

Current Costing Model Is Complex. In an effort to comply with various statutory requirements, the BOE's costing model has become increasingly complex and expensive to administer. As new STJs have been established, adjusting the model has become an expensive and resource-intensive undertaking. Gathering the data necessary to calculate workload requirements is now a sizeable task, while the data gathered through such efforts (including number of seller permits, number of returns, and hours worked) often are not particularly reflective of the actual workload involved. (Workload is difficult to quantify because the existing time reporting system does not track costs to the necessary level of detail.) As a result of the cap mechanism referred to above, the General Fund subsidizes certain STJs for administrative costs; for these STJs the link to actual costs is even more tenuous.

The complexity of the costing model has made its results increasingly difficult to explain to local agencies. This is especially true in situations where fees may increase as a result of workload changes, yet revenues to the particular STJ are actually decreasing. In fact, the ratio of administrative costs to revenue can vary widely depending upon circumstances. In addition, it is difficult to estimate with any precision the likely fees for new STJs that come on line.

Alternative Fee Structures. In consultation with the Department of Finance, STJ representatives, and the Legislative Analyst's Office (LAO), the BOE developed several alternatives that attempted to address the overall goals that it be (1) relatively straightforward to determine, (2) methodology can be easily explained, (3) reasonably related to each tax component's cost, and (4) can readily incorporate additional special tax jurisdictions.

Of the alternatives developed by BOE, we believe its "modified revenue" model best meets the criteria listed in Figure 1. Basically, the model identifies four key types of workload, and uses-for three of the workloads-revenue-related "proxies" as a way of allocating costs to the different funds/jurisdictions. The workloads and cost allocation methods are:

- ***Registration.*** Allocated based on total revenue actually received through the normal returns process.
- ***Return Processing.*** Allocated based on the number of return lines used in the filed tax returns.
- ***Audits.*** Allocated based on the tax change associated with audits of each of the taxes.
- ***Collections.*** Allocated based on revenue collected for the benefit of each of the SUT funding sources.

The approach described above would eliminate the current somewhat arbitrary cap on administrative costs as a percent of revenue. Additionally, it would ease the cost of administration for BOE and provide a much more transparent process for other taxing entities. Finally, the methodology proposed could easily incorporate additional STJs as they are approved by voters, and accommodate adjustments to the rate or base of existing tax components.

The modified revenue model for allocating costs would have differential effects on individual components of the SUT-including the state General Fund, uniform local taxes, and special taxes. In addition, substantial shifts might occur within the uniform local revenue components and the STJ component. Any shift in the existing distribution of costs is likely to bring objections from those who would end up paying more and support from those who would pay less. Nevertheless, we think that the proposed alternative is a more reasonable method through which to allocate costs than that currently used.

LAO Recommendations
In view of the issues associated with the current costing methodology, we recommend the enactment of legislation implementing a simplified methodology that will nevertheless reasonably approximate the workload associated with each of the sales and use tax's major funding sources. Under the modified revenue proposal described above, the share borne by the state General Fund and the STJs would drop slightly, while the share borne by the uniform local tax would increase somewhat. These changes are shown in Figure 2. The reduction in the proportion of costs borne by the General Fund (from 72 percent to 70 percent) would translate to a General Fund savings of $6 million.

Figure 2

Sales and Use Tax Cost Allocation

(Percent of Total Costs)

	State		Local	
	General Fund	Special Funds	Uniform	STJs[a]
Current	72%	—	13%	15%
Proposed	70	—	17	13

a Special taxing jurisdictions.

STAFF RECOMMENDATION: ADOPT the LAO recommendation and direct the LAO to prepare and submit trailer bill legislation to adjust the proportion of costs.

VOTE:

2. Reimbursing the Local Public Safety Fund and Local Revenue Fund

In the Supplemental Report to the Legislature for the 2004 Budget Act, the BOE was directed to provide to the Chair of the Joint Legislative Budget Committee an analysis of methodological approaches to allocating the administrative costs of collecting the sales and use tax and the transactions and use tax among and between the state General Fund, special funds, Bradley Burns, and local option taxes. According to the LAO, the BOE does not believe that it has the authority under current law to assess either the Local Revenue Fund or the Local Public Safety

Fund for a share of SUT-related administrative costs, so these funds were not included in the report.

Like the special taxing jurisdiction cost, the apportioned costs associated with these two funds are shared by the General Fund and local entities.

LAO Comment: We recommend that the Legislature consider legislation allowing for the assessment of administrative costs that are attributable to administering the Local Revenue Fund and the Local Public Safety Fund. Enactment of this recommendation would result in additional General Fund savings of $30 million.

STAFF RECOMMENDATION:
1. Request the LAO report on the impact on Realignment and social services accounts of assessing the LRF.

2. Direct the LAO to consult with Legislative Counsel for guidance on whether assessing the LRF or LPSF for administrative costs would violate the State's constitution or other statute.

3. Vehicle, Vessel and Aircraft Use Tax Exemption

A widely publicized use tax issue is the exclusion on vehicle, vessel, and aircraft purchases. Prior to the 2004 Budget Act, these purchases were subject to a 90-day presumption, meaning use tax would not apply if the item was registered more than 90 days after purchase. The "90-day rule" created a notorious incentive to "offshore" the asset until the expiration of that time.

As part of the 2004 Budget Act, the state established a rebuttable presumption that a vehicle, vessel, or aircraft is intended for use in the state if registered within 12 months of purchase. This presumption was written to be effective for two years only.

Notwithstanding this heightened standard for documenting use, according to a study conducted by the BOE, recreational vehicle and boat sales (which comprise a majority of the affected purchases) have increased by 12 percent and 10 percent, respectively, since the change was enacted. Among the 25 largest RV dealers, out of state deliveries dropped from 1 in 4 to 1 in 10. The number of out-of-state boat deliveries dropped from 1 in 4 to 1 in 5.

The Governor has proposed extending, for one year only, the requirement that the use tax to be paid if the vehicle, vessel or aircraft is brought into the state within 12 months of purchase. According to the Board of Equalization, revenue estimates of $35 million General Fund should be met. The trailer bill that would enact the proposed changes is attached as attachment #2.

Staff Comment:
In light of the state's long-term operating shortfall and the enormity of the tax gap described previously, as well as the practical considerations on tax equity, the application of the Legislature should explore making the 12-month rule on purchases of vehicles, vessels, and aircraft permanent.

Staff Recommendation: Request the DOF explain the rationale for extending the tax exemption for one year only and the basis for the $35 million revenue estimate.

4. Salary Savings Adjustment

The Governor's Budget includes an adjustment for "salary savings" in departments' budgets. This adjustment reflects the amount of salary expense that a department saves when a position is vacant or filled at a lower salary level than the budgeted level.

Staff Comment: The BOE's salary savings are estimated to be 2.5 percent in the current year and 3.9 percent in the budget year. During discussions on a mid-year funding shortfall for repairs to the BOE headquarters building, the BOE disclosed that at the midpoint of the current year, salary savings were actually closer to nine percent, a difference of several million dollars. The BOE was able to divert $5 million from their personal services savings to help fund the building repair.

The Board has explained that they are aggressively filling positions and identified a looming shortfall in unfunded separation costs retirements (e.g. cashing out personal leave) as reasons for the high salary savings. Those separation costs were expected to reach $10 million. They noted that they expected salary savings to draw down to five percent by year end.

Saving for an expected personal services shortfall is a nonstandard practice in state budgeting. If that shortfall were to occur suddenly, the department would have the opportunity to fund the shortfall through the budget process or, if necessary, a midyear adjustment for an unanticipated expense.

Staff notes that in the 2004-05 year the BOE reverted $14.3 million in personal services funds, 7 percent share of the department's total General Fund appropriation. This is a very high share for any department. The current year reversion amount is not known at this time, presumably it would have included $5 million had that money not been diverted to the headquarters building repair.

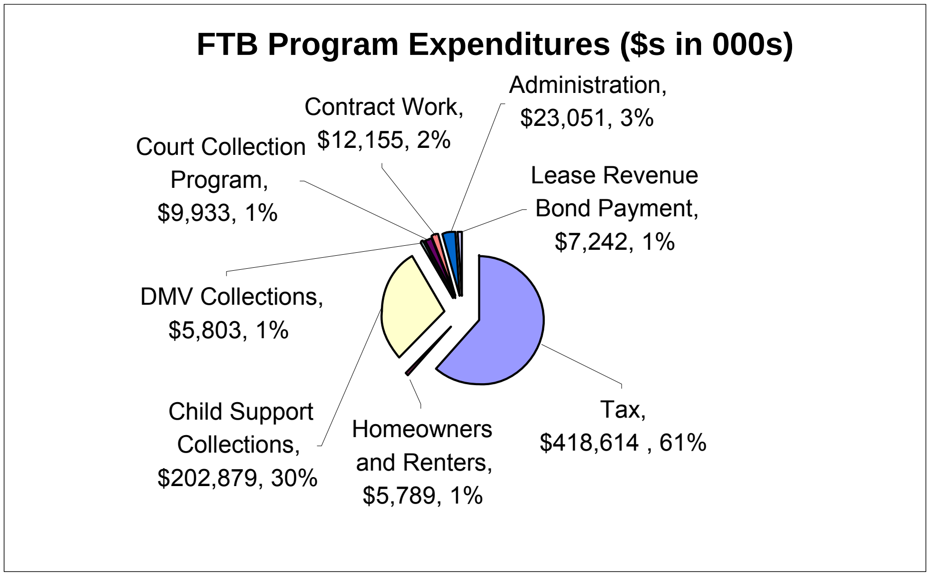
The department provided data showing current vacancy levels and a steep downward trend towards a standard five percent level. While this goal would require very aggressive filling of 71 positions in 6 months, it nonetheless provides the best data available for ascertaining the appropriate salary savings level for the department.

Staff Recommendation: REDUCE the BOE's personal services budget (Schedule 1 of Item 0860-001-0001) by $2.252 million to reflect a standard five percent salary savings level.

VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. The Governor's budget funds 5,160.4 positions (including 32.5 new positions) and expenditures of $662.4 million ($499.2 million General Fund).



1. BUDGET CHANGE PROPOSALS PROPOSED FOR CONSENT

A. Outside Counsel and Case Experts:
The Franchise Tax Board requests an augmentation of $690,000 General Fund and 1.5 positions to contract with out-of state counsel, case experts, and consultants, to perform in-house legal services for out of state cases. The proposal would replace attorney services no longer provided by the Attorney General. If not approved, collections on $12.5 million in out of state bankruptcy claims would be endangered.

B. Court-Ordered Debt Collection Expansion
The Franchise Tax Board requests 31 positions and $3.84 million the first year of the Court Ordered Expansion Project. Chapter 380, Statutes of 2004 (AB 246, Escutia) made permanent the practice of FTB, in consultation with Judicial Counsel, handling collection referrals from all 58 counties and superior courts. This program is funded by reimbursements and collections provided to the participating clients, primarily the county Superior Courts and Probation Offices.

C. California Child Support Automation System (CCSAS)
The Administration proposes to reduce funding for the California Child Support Automation System by $33.8 million, in accordance with the latest special project report. Adjustments to the schedule include reductions in printing, training, consulting, data processing and equipment,

offset slightly by an increase costs to the wide area network. The department is in the third year of system development in a multi-year project expected to be fully implemented in 2010. Chapter 479, Statutes of 1999 (AB 150) directed the FTB to serve as an agent of the Department of Child Support Services to be responsible for procuring, developing, implementing, and maintaining the operation of the CCSAS statewide.

D. Voluntary Contributions
The FTB requests $18,000 General Fund to pay for the costs of printing and processing the newest additions to the state tax return: the Veteran's Quality of Life Fund, California Sexual Violence Victims Services Fund, and California Colorectal Cancer Prevention Fund. These designations were authorized by AB 357 (Chapter 143, Statutes of 2005), AB 190 (Chapter 160, Statutes of 2005), and AB 819 (Chapter 697, Statutes of 2005), respectively. Designations on the tax form are based on space available on the tax form. Generally, no more than 14 deductions can appear on the tax form.

E. Processing Equipment Replacement
The Administration proposes funding of $420,000 in the budget year and four years following to finance replacement of a bar code reader and mail sorting equipment that has reached the end of their service lives. The bar code machine allows the FTB to receive discounted postage rates, resulting in a savings of $1.5 million annually. The sorting equipment read, fold, cut, and insert the majority of the department's correspondence.

STAFF RECOMMENDATION: APPROVE consent items A through E.

VOTE ON CONSENT ITEMS:

1. Savings from Electronic Filing (LAO Issue)

Previously, we have noted that some of the state's tax agencies have made considerable strides in electronic remittance and return processing, including FTB. The costs associated with processing electronically filed returns and remittances are a fraction of the costs associated with paper documentation. For example, FTB has reported that about 4,800 *electronic* remittances are processed per each direct staff hour. By comparison, only 62 *paper* remittances are processed per direct staff hour. This cost differential translates directly into budget savings.

Information provided by FTB indicates ongoing growth in electronic filing of returns and remittances. This growth has occurred as a combined result of statutory mandates for tax practitioners as well as a "natural" migration from paper to electronic filing by individual and business taxpayers. The department reports that it expects 10 percent annual growth in electronic remittances through 2008, and 5 percent to 10 percent annual growth in electronic returns over the same period.

Reflecting the growth in electronic filings and remittances-and the large savings associated with the use of this technology-the department's processing budget was reduced annually from 2001-02 through 2003-04. These reductions ranged from $400,000 to about $1 million. The 2005-06 budget was adjusted to account for continuing e-filing savings in 2004-05 and 2005-06.

No such budget reductions were proposed as part of the 2006-07 budget, although FTB indicates that its savings are expected to be over $200,000. (Based on our review, this savings amount does not appear to mesh with the level of e-filing anticipated by the department.) The FTB is also bringing on line the Business Entities E-File ('BEEF') system. Although the program was not started until January 2006, budgetary savings should materialize in the near future.

Based on information provided by the department, we recommend that the Legislature reduce FTB's budget by $200,000 for 2006-07. We also recommend that the Legislature require the department to report at hearings regarding (1) the discrepancy between forecast and likely budget savings associated with increased e-filing in 2006-07, and (2) the status of the FTB's BEEF program and the timing of additional budgetary savings.

Staff Comment:
The FTB took a $7.2 million reduction as part of last year's department specific unallocated reductions to General Fund funded departments. The FTB has reported that their ability to "afford" that ongoing reduction is partially contingent upon not reverting savings for e-filing efficiencies.

STAFF RECOMMENDATION: Request FTB report as described in the LAO comments:

1. The discrepancy between forecast and likely budget savings associated with increased e-filing in 2006-07.

2. The status of the FTB's BEEF program and the timing of additional budgetary savings.

2. Health Savings Account Trailer Bill – The Administration submitted a budget trailer bill to amend Revenue and Taxation Code (see attachment 3) to establish federal conformity with a deduction for health savings accounts.

Staff Comment: This bill is relates to a policy matter (health savings accounts) that should be considered by the appropriate policy committees.

STAFF RECOMMENDATION: REJECT the Health Savings Account Trailer Bill.

VOTE:

ATTACHMENT #1: Teacher Retention Tax Credit

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2002, for each taxable year beginning on or after January 1, 2003, and before January 1, 2004, and for each taxable year beginning on and after January 1, ~~2006~~ 2007, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

(b) The amount of the credit shall be the lesser of the amounts computed under paragraph (1) or (2):

(1) In the case of any credentialed teacher who has, as of the last day of the taxable year:

(A) Completed at least four but less than six years of service as a credentialed teacher, the credit shall be two hundred fifty dollars ($250).

(B) Completed at least six but less than 11 years of service as a credentialed teacher, the credit shall be five hundred dollars ($500).

(C) Completed at least 11 but less than 20 years of service as a credentialed teacher, the credit shall be one thousand dollars ($1,000).

(D) Completed 20 or more years of service as a credentialed teacher, the credit shall be one thousand five hundred dollars ($1,500).

(E) For purposes of determining years of service, years of service performed as a teacher in a qualifying educational institution, ~~which~~ that otherwise meets the criteria specified in paragraph (2) of subdivision (c) except that the qualifying educational institution is not located in this state, in another state shall qualify for each year the teacher was credentialed by the public education agency in that state.

(2) Fifty percent of the amount determined as follows:

(A) Divide the amount received by the taxpayer as wages and salary for services as a credentialed teacher, as defined in paragraph (3) of subdivision (c), by the taxpayer's total adjusted gross income from all sources.

(B) Multiply the taxpayer's total tax, as defined in paragraph (4) of subdivision (c), by a ratio, not to exceed 1.00, that is otherwise equal to the ratio determined for the taxpayer under subparagraph (A).

(c) For purposes of this section, all of the following definitions apply:

(1) "Credentialed teacher" means a person who holds a preliminary or professional clear credential as determined by the Commission on Teacher Credentialing pursuant to Article 1 (commencing with Section 44200) of Chapter 2 of Part 25 of Division 2 of Title 2 of the Education Code and who teaches at a qualifying educational institution.

(2) "Qualifying educational institution" means any elementary, secondary, or vocational-technical school located in this state providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof. "Qualifying educational institution" includes an agency or instrumentality of the federal government providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof, at any location within this state, including an Indian reservation or a military installation located within the geographical borders of this state, where a credentialed teacher is employed by the

federal government or an agency or instrumentality thereof. "Qualifying educational institution" includes any elementary, secondary, or vocational-technical school located in California, that files an affidavit pursuant to Sections 33190 and 33191 of the Education Code, and provides education for kindergarten and grades 1 to 12, inclusive, or any part thereof.

(3) "Wages and salaries for services as a credentialed teacher" includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(4) "Total tax" means the tax imposed under this part for the taxable year, before the application under Section 19007 of any payment of estimated tax or any installment thereof, less all credits allowed for the taxable year except for the following:

(A) The credit allowed under this section.

(B) The credit allowed under Section 17061 (relating to refunds under the Unemployment Insurance Code).

(C) The credit allowed under Section 19002 (relating to tax withholding).

(D) Any refundable credit that is allowed under this part.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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ATTACHMENT #2: Vehicle, Vessel, and Aircraft Use Tax Exemption Trailer Bill

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6248 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state, and which is brought into California within 12 months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the ~~VehicleCode~~ Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) The amendments made to this section by the act adding this subdivision do not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.

(e) (1) Notwithstanding subdivision (a), aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state.

(2) This subdivision does not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

(3) This subdivision applies to aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification on or after the operative date of this subdivision.

(f) The amendments made by ~~the act~~ Section 2 of Chapter 226 of the Statues of 2004 adding this subdivision shall become operative on October 1, 2004.

(g) The Legislative Analyst's office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(h) This section shall remain in effect only until ~~July 1, 2006~~ and including June 30, 2007, and as of ~~that date~~ July 1, 2007, is repealed.

SEC. 2. Section 6248 of the Revenue and Taxation Code, as added by Section 3 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after July 1, ~~2006~~ 2007, there shall be a rebuttable presumption that any vehicle bought outside of this State which is brought into California within 90 days from the date of its purchase, and which is subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, was acquired for storage, use, or other consumption in this State.

(b) This section shall become operative on July 1, ~~2006~~ 2007.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

- 0 -

ATTACHMENT #3: Health Savings Accounts Trailer Bill

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17072 of the Revenue and Taxation Code is amended to read:

17072. (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) (1) Section 62(a)(19) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), shall apply, except as otherwise provided.

(2) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.

SEC. 2. Section 17131.4 of the Revenue and Taxation Code is amended to read:

17131.4. (a) Section 106(d) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to contributions to health savings accounts, shall ~~not~~ apply, except as otherwise provided.

(b) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.

SEC. 3. Section 17131.5 of the Revenue and Taxation Code is amended to read:

17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to the exception for health savings accounts, shall ~~not~~ apply, except as otherwise provided.

(b) The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.

SEC. 4. Section 17215.1 of the Revenue and Taxation Code is amended to read:

17215.1. (a) Section 220(f)(5) of the Internal Revenue Code, as amended by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to rollover contributions, shall ~~not~~ apply, except as otherwise provided.

(b) The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.

SEC. 5. Section 17215.4 of the Revenue and Taxation Code is amended to read:

17215.4. (a) Section 223 of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to health savings accounts, shall ~~not~~ apply, except as otherwise provided.

(b) The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2004.

SEC. 6. Section 19184 of the Revenue and Taxation Code is amended to read:

19184. (a) A penalty of fifty dollars ($50) shall be imposed for each failure, unless it is shown that the failure is due to reasonable cause, by any person required to file who fails to file a report at the time and in the manner required by any of the following provisions:

(1) Subdivision (c) of Section 17507, relating to individual retirement accounts.

(2) Section 220(h) of the Internal Revenue Code, relating to medical savings accounts for taxable years beginning on or after January 1, 1997.

(3) Subdivision (b) of Section 17140.3 or subdivision (b) of Section 23711 relating to qualified tuition programs.

(4) Subdivision (e) of Section 23712, relating to Coverdell education savings accounts.

<u>(5) Section 223(h) of the Internal Revenue Code, relating to health savings accounts, for taxable years beginning on or after January 1, 2006.</u>

(b) (1) Any individual who:

(A) Is required to furnish information under Section 17508 as to the amount designated nondeductible contributions made for any taxable year, and

(B) Overstates the amount of those contributions made for that taxable year, shall pay a penalty of one hundred dollars ($100) for each overstatement unless it is shown that the overstatement is due to reasonable cause.

(2) Any individual who fails to file a form required to be filed by the Franchise Tax Board under Section 17508 shall pay a penalty of fifty dollars ($50) for each failure unless it is shown that the failure is due to reasonable cause.

(c) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply in respect of the assessment or collection of any penalty imposed under this section.

SEC. 7. (a) The amendments made by this act to Sections 17072, 17131.4, 17131.5, 17215.1, and 17215.4 of the Revenue and Taxation Code incorporate, by reference, the provisions of Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), which added Section 223 of the Internal Revenue Code to Part VII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code and amended Sections 62, 106, 125, and 220 of the Internal Revenue Code, and shall apply retroactively to taxable years beginning on or after January 1, 2004.

(b) The Legislature finds and declares that this act fulfills a statewide public purpose because of the following:

The State of California has not yet conformed its state income tax law to the provisions of Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173). As the result, the taxpayers who have converted their Archer Medical Savings Accounts into Health Savings Accounts pursuant to Sections 220 and 223 of the Internal Revenue Code may be subject to tax and penalties under state, but not federal, income tax laws. This act provides necessary relief from the tax and penalties to the taxpayers who have converted their Archer Medical Savings Accounts into Health Savings Accounts in taxable years beginning on or after January 1, 2004.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, March 16, 2006
9:30 or Upon Adjournment of Session
Room 112

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

8550 California Horse Racing Board

The seven-member California Horse Racing Board (CHRB) licenses racing industry participants, enforces racing rules related to drugs and other offenses, administers efforts to protect racing horses, and oversees programs to improve the health of jockeys and other industry employees. The purpose of the CHRB is to regulate pari-mutuel wagering for the protection of the betting public, to promote the horse racing and breeding industries, and to maximize State of California tax revenues. The CHRB regulates operations at 14 racetracks, 20 simulcast facilities, and advance deposit wagering services (available via telephone or on-line). In total, the horse racing industry employs an estimated 30,000 Californians.

The CHRB reports that in 2004-05, the total money wagered in California was $4.2 billion. The state's revenue from horseracing is principally derived from unclaimed pari-mutuel tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines. In 2004-05, revenue to the General Fund from these sources totaled $4 million.

California Horse Racing Board – Source of Funds

Fund	***Expenditures*** *(dollars in thousands)* 2004-05	2005-06	2006-07	Change	Percent Change
Fair and Exposition Fund	$8,398	$8,463	$8,685	$222	2.6%
Racetrack Security Account	269	270	1,423	1,153	427.0%
Horse Racing Board	**$8,667**	**$8,733**	**$10,108**	**$1,375**	**15.7%**
Authorized Positions	**55.0**	**57.0**	**57.0**	**0**	**0.0%**

Budget Request: The budget proposes $10.1 million special funds ($8.7 million from the Fair and Exhibition Fund and $1.4 million from the Racetrack Security Account), an increase of $1.4 or 15.7 percent from the estimated current year expenditures.

Proposed Vote Only Issue

Issue Title	Positions	Dollars
A. Office of Administrative Hearings. Requests funding to augment the budget for the costs of administrative hearings from $25,000 to $41,000, based on recent annual expenditures. After an investigation, if the CHRB believes a licensee has violated a CHRB regulation, a complaint is filed with the Board of Stewards, which holds an evidentiary hearing and renders a written decision. If the Stewards decision is appealed, an appeal hearing is held before an administrative law judge from the Office of Administrative Hearings (OAH). OAH cases can vary from financial complaints to drug positive findings. (Special Fund)		$26,000

Staff Recommendation. No issues have been raised by the LAO or staff on the vote-only issue. Staff recommends approval of this vote-only issue.

Action.

Discussion Issue

1. Drug Testing Costs

Budget Request. The budget proposes an increase of $851,000 from the Racetrack Security Fund for increased costs for drug testing services. This amount would increase the CHRB's drug testing budget from $1.3 million to $2.2 million.

LAO Recommendation. The LAO indicates that the CHRB has not provided evidence that the integrity of California racing would decline if CHRB continues to receive its 2005-06 testing budget in the budget year. The LAO notes that California currently tests and spends roughly the same amount on testing (per race) as the national average. Because CHRB has other options to meet its legislative mandates on drug testing, the LAO recommends rejecting the proposal for $851,000 of funding from the Racetrack Security Fund. This recommendation would increase General Fund resources by an equal amount.

The LAO has identified several other options that would allow CHRB to meet its legislative mandates and reduce state costs below those proposed:

- Testing more than 50 percent of samples at the Maddy Lab (making it the primary lab) and resuming use of other laboratories, chosen through competitive bidding, for the rest of samples.
- Continuing the practice adopted in 2005-06 of using the Maddy Lab as the only testing facility and testing most of the submitted samples, chosen randomly.
- Reducing the number of required samples each race day through regulatory changes.
- Requesting legislative authorization to charge racing associations and/or owners for the increased testing costs, similar to the way that milkshake testing is funded under Chapter 179.

Background. In 2004-05, the CHRB spent $1.1 million on its equine drug testing program, which tested about 32,000 urine and blood samples. Two-thirds of the samples were sent to a private laboratory chosen by competitive bid at a cost of $540,000. The remaining one-third of samples was sent to the Kenneth L. Maddy Equine Analytical Laboratory (Maddy Lab) at the University of California, Davis. The Maddy Lab charged CHRB $541,000 – roughly twice as much per sample. One reason for the price difference is that the Maddy Lab uses more advanced technology – with broader capabilities to detect prohibited substances – than nearly all private testing facilities.

The CHRB decided to move all of its testing to the Maddy Lab in 2005-06. Testing expenses in 2005-06 will be an estimated $1.3 million, up 23 percent from the prior fiscal year. (This does not include costs for milkshake testing, for which racing associations pay the Maddy Lab directly.) Because of the Maddy Lab's higher costs, CHRB has implemented a policy that the Maddy Lab will test routine drug samples on a random basis. This means that only around two-thirds of samples collected according to CHRB rules are being tested.

Staff Comments. The Budget Change Proposal submitted by the CHRB indicates that they are currently testing two-thirds of the samples collected and that the requested funding will allow them to test 100 percent of the samples collected at the Maddy Lab. The CHRB has indicated that the Maddy Lab is one of two labs nationwide that utilizes mass spectrometers and other sophisticated instrumentation testing, allowing lab personnel to detect and quantify more than 800 drug substances. The CHRB also indicated that no other states use instrumentation testing for 100 percent of the samples collected.

Staff Recommendation. Given that California currently tests and spends roughly the same amount on testing per race as the national average and that no other state uses instrumentation testing for 100 percent of the samples collected, staff concurs with the LAO recommendation to reject the proposal for an augmentation of $851,000 from the Racetrack Security Fund. This recommendation would increase General Fund resources by an equal amount.

Action.

8690 Seismic Safety Commission

The Seismic Safety Commission (SSC) was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Budget Request: The budget proposes total expenditures of $1.1 million ($1.1 million from the Insurance Fund and $75,000 in reimbursements) for 6.8 positions at the SSC. This amount is a decrease of $63,000, or 5.2 percent from estimated current-year expenditures.

Discussion Issue

1. Fund Source for the SSC Sunsets July, 1, 2007.

As part of the 2003-04 Budget, the Governor and Legislature agreed to shift the primary funding for the Seismic Safety Commission (SSC) from the General Fund to the Insurance Fund. The Department of Insurance was authorized to collect a small assessment from property insurance carriers and to transfer the collected funds to a new Seismic Safety Account in the Insurance Fund. Funds in the account would be used to support the SSC's annual budget (approximately $1 million). A sunset of July 1, 2007 was placed on the new funding arrangement to allow the Department of Insurance to evaluate its impact. In 2005, with the approval and support of the Department of Insurance, the SSC sponsored AB 1374 (Liu) which would extend the sunset to July 2013. AB 1374 was passed by the Legislature, but vetoed by Governor Schwarzenegger. The veto message cited a finding by the California Performance Review that the Commission's duties may be duplicative of other state agencies.

In response to directions in the veto message, the SSC commenced meetings with the Administration in December 2005. Those discussions are still continuing. The Administration and SSC intend to reach agreement by April on the SSC's future role and funding.

Staff Comments. The proposed budget does not include any proposals for extending the sunset. Without legislative action in 2006, the SSC would need to discontinue its operations – likely in late 2006 – because of state personnel rules and the expiration of the Commission's lease prior to July 2007. The current July 2007 sunset, and the steps that must precede it to avoid interruption of the Commission's operations, require a resolution of the Commission's status as part of the 2006 budget process.

Staff Recommendation. Staff recommends that the Subcommittee ask SSC to provide an update on the status of discussions, including an anticipated timeline for submitting a proposal to the Legislature regarding the future of the SSC. Staff recommends holding this budget open pending a revised proposal from the Administration.

Action.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency level of law enforcement officers by establishing minimum selection and training standards, improving management practices, and assisting local law enforcement agencies in providing necessary training and career development programs.

Budget Request. The budget proposes a total of $57.5 million, which is an increase of $1.3 million, or 2.3 percent from the current-year budget.

Funding within POST supports law enforcement training needs such as developing and certifying courses that meet identified training needs; quality control of POST-certified courses, management and leadership training; and identifying emerging training needs. The budget proposes expenditures of $56.2 million from the Peace Officer's Training Fund (POTF).

POST Program Expenditures

	Expenditures *(dollars in thousands)*				**Percent**
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**Change**
Standards	$5,982	$5,082	$5,203	$121	2.4%
Training	26,338	29,180	30,333	1,153	4.0%
Peace Officer Training	17,732	21,944	21,944	0	0.0%
Administration	5,030	5,618	5,772	154	2.7%
Distributed Administration	-5,030	-5,618	-5,772	-154	-2.7%
Totals, Programs	**$50,052**	**$56,206**	**$57,480**	**$1,274**	**2.3%**
Total Authorized Positions	**111.0**	**115.0**	**115.0**	**0**	**0.0%**

Proposed Vote Only Issue

Issue Title	Positions	Dollars
A. Web-Based Training Funding. Requests $350,000 on a one-time basis to develop Web-based training, performance support tools and other web-based resources for law enforcement training. The proposal would fund replacement of outdated CD-ROM courses with updated Web-based training courses. (Special Fund)	0	$350,000

Staff Recommendation. No issues have been raised by the LAO or staff on the vote-only issue. Staff recommends approval of this vote-only issue.

Action.

Discussion Issue.

1. Budget Control Language – Authorization for the Director of Finance to Augment Expenditures

Budget Request. Provision 2 of Budget Item 8120-101-0268 provides that the Director of Finance may authorize additional expenditures out of the POTF with written notification to the Joint Legislative Budget Committee. The following proposed language has been in the budget act since at least 1998-99:

> Provision 2. The Director of Finance may authorize the augmentation of the total amount available for expenditure under this item in the amount of revenue received by the Peace Officers' Training Fund that is in addition to the revenue appropriated by this item, not sooner than 30 days after written notification to the chairpersons of the respective fiscal committees and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

Staff Comments. The POST indicates that this provision has not been used to-date to augment expenditure authority from the POTF. Staff notes that the revenues coming into the fund have not fluctuated widely and that the Administration has several opportunities during the budget process to request an augmentation to the amount appropriated from the fund should revenues increase.

Staff Recommendation. Staff recommends deletion of Provision 2 of Budget Item 8120-101-0268.

Action.

Control Section 24.10 – Driver Training Fund Transfers

Background. The Driver Training Penalty Assessment Fund receives funds from a portion of the State Penalty Assessment Fund. Historically, using Control Section 24.10, specified portions of the Driver Training Penalty Assessment Fund have been transferred to the Victim/Witness Assistance Fund, the Peace Officers' Training Fund, and the Corrections Training Fund, with the remaining balance going to the General Fund.

Proposed Language. Proposed budget bill language would transfer up to $14 million to the Peace Officer Training Fund, up to $4.1 million to the Victim Witness Assistance Fund, and an estimated $22.8 million to the General Fund.

Staff Recommendation. The language is similar to language approved in the last several years. Staff recommends approval as budgeted.

Action.

0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statues of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor and subject to Senate confirmation. The GCC is the primary public entity that regulates and licenses personnel and operations of the state's gambling industry. The GCC regulates 55 tribal casinos and more than 100 gambling establishments and cardrooms.

California Gambling Control Commission – Source of Funding

Fund	***Expenditures*** *(dollars in thousands)* 2004-05	2005-06	2006-07	Change	Percent Change
General Fund	$0	$0	$725	$725	n/a
Indian Gaming Revenue Sharing Trust Fund	73,844	97,445	96,500	-945	-1.0%
Indian Gaming Special Distribution Fund	36,190	86,332	37,357	-48,975	-56.7%
Gambling Control Fund	1,534	2,180	2,854	674	32.0%
Totals, Funds	**$111,568**	**$185,957**	**$137,436**	**-$48,521**	**-26.1%**

California Gambling Control Commission – Program Funding

Fund	***Expenditures*** *(dollars in thousands)* 2004-05	2005-06	2006-07	Change	Percent Change
Gambling Control Commission					
State Operations	$6,610	$8,366	$10,936	2,570	30.7%
Local Assistance	106,744	129,576	126,500	-3,076	-2.4%
Total	**$104,958**	**$177,591**	**$137,436**	**$-48,521**	**-26.1%**
Authorized Positions	**40.1**	**45.6**	**68.4**	**22.8**	**50.0%**

Budget Request. The budget proposes total expenditures of $137.4 million ($725,000 General Fund, and $136.7 million from special funds), which is a decrease of $48.5 million from estimated current-year expenditures. The reduction in funding is primarily due to a one-time appropriation of $50 million, in the current year, from the Indian Gaming Special Distribution Fund (SDF) to the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) in order to ensure that payments from IGRSTF to non-gaming tribes were done on a quarterly basis rather than as a lump-sum payment in arrears.

The budget proposal significantly increases the size of the GCC. The budget proposes a budget of $10.9 million for State Operations, an increase of $2.6 million or 30.7 percent. The budget also proposes to increase GCC staff by 22.8 positions, or 50 percent. The specific budget augmentation proposals are highlighted below.

Of the total funding for the GCC, $126.5 million is for local assistance. Of this amount, $96.5 million is for distribution from the Revenue Sharing Trust Fund to non-gaming tribes as specified in the compacts and $30 million is for distribution to locals to mitigate the effects of tribal gaming operations.

Proposed Vote Only Issues

Issue Title	Positions	Dollars
A. Administrative, Information Technology, and Legal Workload. Requests $476,000 ($143,000 Gambling Control Fund, $333,000 Indian Gaming Special Distribution Fund) and 4.5 positions to address administrative workload needs related to budget, accounting, personnel, and information technology. (Special Funds)	4.5	$476,000
B. Third Party Program Licensing Workload. Requests funding of $184,000 from the Gambling Control Fund to make permanent 2.5 limited term positions due to expire June 30, 2006. These positions would continue to administer the Third Parties and Gambling Business registration and licensure program. (Special Fund)	2.5	$184,000

Staff Recommendation. No issues have been raised by the LAO or staff on the vote-only issues. Staff recommends approval of these vote-only issues.

Action.

Discussion Issues

1. Licensing, Audit, and Field Inspection Augmentation.

Budget Request. The budget proposes to provide $1.7 million ($911,000 Special Distribution Fund, $396,000 Gambling Control Fund, and $359,000 General Fund) and 14.5 positions to augment licensing and audit workload and to establish a field inspection program. Specifically, this request proposes:

- 5.5 positions to expand its licensing division, which currently has 7.5 authorized positions. (In addition, the budget proposes to make permanent 2.5 limited-term licensing program positions related to the Third Party Program Licensing noted in the table above).
- 6 auditors and support staff, to expand a current staff of 9 auditors.
- 3 analysts and technicians for a new field inspection program, principally to inspect gaming devices quarterly under terms of the 2004 compacts.

Analyst's Concerns. The LAO indicates that they generally agree with the administration that the Legislature should expand the commission's staff. However, the LAO has raised the following concerns with components of the proposal:

Field Inspection Positions. The field inspection teams would be supported by a new five-member technical services, research, and testing unit to assist commissioners and staff with technical issues associated with the functioning, integrity, and operations of today's advanced gambling equipment. The LAO notes that the research unit positions are proposed on a two-year, limited-term basis. The LAO believes that the GCC needs to show that these new units produce more benefit for the state, gambling patrons, and tribes than they cost. Consequently, the LAO recommends that the new positions in the inspections unit – like those proposed for the new technical resources unit – be approved on a two-year limited-term basis.

Audit Staff Expansion. The LAO indicates that the GCC has completed only about six full audits of tribes since its inception, citing several provisions of the state's compacts that restrict its ability to audit tribal operations effectively. The LAO notes that expanded workloads and turnover also seem to be responsible for some of the poor record to date. Until the commission can provide evidence of improving productivity of existing staff, the LAO believes that expansion is not warranted. Therefore, the LAO recommends that the Legislature reject the proposal to expand the auditing staff at this time, reducing the total costs of the expansion proposal by approximately $435,000.

Use of General Fund Dollars. The commission currently receives all operational funding from the Special Distribution Fund (SDF) and the Gambling Control Fund (for cardroom regulation), which receive gambling-related fees and revenues. The administration proposes to fund part of the costs of the commission's expansion (as well as that of Department of Justice's investigative activities) from the General Fund. The administration's rationale is that, since some tribes make payments to the General Fund, a proportion of regulatory costs should also be paid from the General Fund. The LAO notes that state law and the compacts allow commission regulatory funding to come from SDF. (The SDF is projected to have a fund balance of $113 million at the end of 2006-07). The LAO, therefore, recommends continuing to fund commission regulatory activities exclusively from revenues derived from the industry itself, as is usually the case with other regulatory agencies. Shifting costs from the General Fund to the SDF results in a General Fund benefit of $725,000 ($359,000 from this proposal and $366,000 from the technical services program).

Staff Comments.

- *Field Inspection Positions.* The GCC has indicated that it does not object to making the field inspection positions two-year limited-term, consistent with the Technical Services Program positions.
- *Audit Staff Expansion.* The GCC has indicated that four Special Deposit Fund (SDF) audits have been completed to-date, that field work has been completed on an additional two audits, and that the field work has begun on an additional three audits. The GCC has provided information to the Subcommittee indicating that it could complete 6 to 8 SDF audits in the budget year with current audit staffing, and it could complete 8 to 11 SDF audits if the additional audit positions filled and trained by November 2006.
- *Use of General Fund Dollars.* Under the proposal submitted last year, all of the funding was proposed from the SDF.

Staff Recommendation. Consistent with the LAO recommendations, staff recommends: (1) adoption of the Field Inspection positions on a two-year limited-term basis; (2) rejection of the six new audit positions (reduce proposal by $435,000 and six positions); and (3) shift costs from the General Fund to the SDF (reduce GF by $335,000 and increase SDF by $335,000).

Action.

2. Technical Services Program.

Budget Request. The budget proposes $732,000 ($366,000 General Fund and $366,000 SDF) and five positions on a two-year limited-term basis to develop a Technical Services Program, Research and Testing Unit. The primary purpose of the Technical Services Program is to provide essential technical support, guidance, and direction to the gaming device field inspection program. The proposal requests two computer/electrical engineer positions, one statistician/ mathematician position, one management services technician, and one special consultant position.

Use of General Fund Dollars. The LAO recommends shifting costs from the General Fund to the SDF resulting in a General Fund benefit of $366,000 to the General Fund.

Staff Comments. Staff notes that the Technical Services Program is similar to the field inspection support positions that were approved by Subcommittee No. 4 last year.

Staff Recommendation. Staff recommends approval of the Technical Services Program on a two-year limited-term basis, with all the funding coming from the SDF (reduce GF by $366,000 and increase SDF by $366,000).

Action.

3. Budget Control Language – Authorization for the Director of Finance to Augment Expenditures

Budget Request. Provision 2 of Budget Item 0855-101-0367 authorizes the Director of Finance to augment the amount available for local mitigation from the Special Distribution Fund (SDF).

Staff Comments. The GCC indicates that this provision has not been used to-date to augment expenditure authority from the SDF. Staff notes that the Administration has several opportunities during the budget process to request an augmentation to the amount appropriated from the fund should revenues increase.

Staff Recommendation. Staff recommends deletion of Provision 2 of Budget Item 0855-101-0367.

Action.

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, March 22, 2006
10:00 a.m.
Room 113

Consultant: Brian Annis

Select State & Consumer Services / Other

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Discussion Items

Department Budgets Proposed for Vote Only

(1) 0510 Secretary for State and Consumer Services

The State and Consumer Services Agency oversees the departments of Consumer Affairs, Fair Employment and Housing, and General Services. The Agency also oversees the California Science Center, the Franchise Tax Board, the California Building Standards Commission, the State Personnel Board, the California Public Employees' Retirement System, the California State Teachers' Retirement System, the Victims Compensation and Government Claims Board, and the Office of the Insurance Advisor.

The Governor proposes expenditures of $1.4 million ($769,000 General Fund) and 8.8 positions for the Agency – an increase of $4,000. The Administration did not submit Budget Change Proposals for the Agency.

(Staff recommends a consolidated vote for all "vote-only" departments – see page 11 of this agenda)

(2) 1100 California Science Center

The California Science Center is an educational, scientific, and technological center located in Exposition Park, a 160-acre tract in south Los Angeles. The California African American Museum, also included in the park, provides exhibitions and programs on the history, art, and culture of African Americans. In addition, the Office of the Park Manager is responsible for maintenance of the park, public safety, and parking facilities.

The Governor proposes expenditures of $20.3 million ($14.7 million General Fund) and 175.7 positions for the Science Center – a total decrease of $4.5 million (and a General Fund increase of $149,000). The year-over-year budget reduction is due to a one-time reimbursement of $4.7 million in 2005-06 from the Office of Emergency Services and the Federal Emergency Management Agency for construction, renovation, and seismic retrofit work for the Armory building. The Armory building is on the Science Center site, and is used by the Los Angeles Unified School District and the Science Center to operate the Science Center School and the Center for Science Learning. The Administration submitted three Budget Change Proposals (BCPs) for the Science Center, which do not increase General Fund costs.

(2a) **Communications Equipment (Office of Park Manager BCP #1)** – the Administration requests a one-time augmentation of $76,000 (special fund) to upgrade communications equipment used by public safety staff at the Park.

(2b) **Parking Structure Maintenance (Office of Park Manager BCP #2)** - the Administration requests a one-time augmentation of $99,000 (special fund) to slurry seal and re-stripe two surface parking lots, to re-stripe the parking structure, and to purchase a power sweeper and power scrubber.

(2c) **Operating Expense to Personal Services Shift (California African American Museum BCP #1)** – the Administration requests a permanent shift of $143,000 from Operating Expenses to Personal Services (net-zero General Fund cost) and the establishment of two new positions, a Deputy Director of Curatorial Services and an Accounting Technician. The BCP indicates the positions are necessary to address the current workload at the Museum and that the reduction in Operating Expenses will not adversely affect the facility or its operations.

1100 & 1111 Select Regulatory Boards, Bureaus, Programs, Divisions (within the Department of Consumer Affairs)

(3) Boards/Bureaus without Budget Change Proposals (BCPs): The Administration did not submit BCPs for the following entities. No Board or Bureau listed below, except the Office of Privacy Protection, receives General Fund support. (Dollars are in 1,000s)

		Positions		Expenditures	
		2005-06	2006-07	2005-06	2006-07
	Boards and Commissions - Organization Code 1110				
(3a)	**Behavioral Science, Board of**	29.4	29.4	$4,975	$4,918
(3b)	**Contractor's State License Board**	386.8	386.8	51,438	51,850
(3c)	**Guide Dogs for the Blind, State Board of**	1.3	1.3	152	154
(3d)	**Acupuncture Board**	9.4	9.4	2,294	2,457
(3e)	**California Board of Podiatric Medicine**	5.1	5.1	1,153	1,224
(3f)	**Psychology, Board of**	12.7	12.7	3,062	3,238
(3g)	**Respiratory Care Board of California**	16.2	16.2	2,631	2,703
(3h)	**State Board of Optometry**	6.8	6.8	1,466	1,180
(3i)	**Board of Registered Nursing**	89.2	89.2	20,424	21,349
(3j)	**Court Reporters Board of California**	4.5	4.5	1,052	1,111
(3k)	**Veterinary Medical Board**	10.0	10.0	1,984	2,327
	Bureaus, Programs, Divisions - Organization Code 1111				
(3l)	**Arbitration Certification Program**	5.4	5.4	873	911
(3m)	**Electronic & Appliance Repair, Bureau of**	14.5	14.5	2,016	2,015
(3n)	**Telephone Medical Advice Services Program**	0.9	0.9	144	136
(3o)	**Cemetery & Funeral Bureau**	22.5	22.5	3,717	3,809
(3p)	**Naturopathic Medicine, Bureau**	0.9	0.9	120	116
(3q)	**Office of Privacy Protection**	8.3	8.3	852	820

(4) Boards/Bureaus with Budget Change Proposals (BCPs): The Administration submitted BCPs for the following Boards and Bureaus that make minor adjustments to funding and staff primarily in response to workload and cost changes. None of the entities listed below receive General Fund support. No concerns have been raised to Staff concerning budget changes for these entities. A brief description of the Budget Change Proposal is included under each Board or Bureau.

		Positions		Expenditures	
		2005-06	**2006-07**	**2005-06**	**2006-07**
	Boards and Commissions - Organization Code 1110				
	Architects Board, California	23.0	23.5	$3,928	$4,031
(4a)		Augmentation of $27,000 and 0.5 positions for restoration of a position lost in 2003-04 due to a vacancy. The Board reports it cannot address enforcement actions in a timely fashion without this position.			
	Dental Board of California	55.1	55.5	11,639	10,703
(4b)		Augmentation of $74,000 and 1.0 position for workload related to Chapter 539, St of 2005 (Oral Conscious Sedation). This request is similar to fiscal estimates associated with Chapter 539.			
	Geologists and Geophysicists, Board for	8.7	9.6	969	1,185
(4c)		Augmentation of $137,000 to restore operational expenses funding. Funding was cut in 2003-04 due to fund insolvency, however, Chapter 874, St of 2003, allowed for a fee increase and the Board requests the funding to resume bi-annual exams, etc.			
(4d)		Augmentation of $48,000 and the restoration of 1.0 clerical position lost in 2002-03 due to vacancy. The BCP indicates that if the position is not reestablished the result could be the destruction of structures/loss of life from landslides, and major multiple-fatality infrastructure collapses (e.g. bridges and skyscrapers) during earthquakes.			
	Physical Therapy Board	10.3	10.3	2,397	2,440
(4e)		Reduction of $297,000 to reflect that most licensees now register and take exams through the Federation of State Boards of Physical Therapy, which reduces the Board's workload.			
	Physician Asst. Committee	4.4	4.4	965	1,084
(4f)		Augmentation of $38,000 to fund the increased cost of Investigative services performed with reimbursement by the Medical Board.			

		Positions		Expenditures	
		2005-06	2006-07	2005-06	2006-07
	Speech-Language Pathology and Audiology Board	4.7	5.0	$630	$739
(4g)		Augmentation of $18,000 to restore 0.3 position lost due to budget reductions in 2003-04. The BCP indicates the level of enforcement activity has increased in recent years, and the 0.3 position is needed to complete the workload in a timely manner.			
	California Board of Occupational Therapy	4.7	4.7	761	842
(4h)		Augmentation of $25,000 (one-time) for moving costs.			
	Osteopathic Medical Board of California	4.0	4.5	1,130	1,190
(4i)		Augmentation of $27,000 and 0.5 clerical position to support workload growth from the number of licensees increasing from 2,800 to 4,200 over the past five years.			
(4j)		Shift of $1,400 from operating expenditures to personal services to restore per diem funding for Board members.			
	California State Board of Pharmacy	45.3	47.7	8,205	8,446
(4k)		Augmentation of $208,000 to restore 2.5 positions lost from vacant positions eliminations. The BCP indicates this restores 2.5 of 10.0 positions lost, and that the 2.5 positions are necessary to complete workload in a timely manner.			
	Board for Professional Engineers and Land Surveyors	48.4	52.1	7,787	8,041
(4l)		Augmentation of $46,000 to add 3.0 positions ($126,000 of the cost is absorbed through redirection). The BCP indicates Enforcement positions fell by 1.5 in 2001-02 and the 3.0 positions are needed to address the growing backlog of enforcement cases.			
(4m)		Shift of $46,000 from operating positions to personal services to restore one clerical position eliminated in 2002-03 due to vacancy.			
	Structural Pest Control Board	27.4	28.3	3,966	4,273
(4n)		Augmentation of $66,000 to add one position to address unanticipated workload related to Chapter			

		Positions		Expenditures	
		2005-06	2006-07	2005-06	2006-07
		874, St of 2003, which requires new applicants to submit fingerprints and undergo a background check.			
(4o)		Augmentation of $60,000 in operating expenditures for statutorily mandated training of county agricultural commissioners in pesticide misuse.			
	Board of Vocational Nursing and Psychiatric Technicians	36.4	40.2	6,963	6,865
(4p)		Augmentation of $168,000 and 4.0 positions (both permanent) to address workload growth in the licensing unit. The number of Vocational Nursing applications grew by 71% from 2000-01 to 2004-05.			
	Crosscutting Board BCPs	na	na	na	na
(4q)		Augmentation of $1.7 million (one-time) and $178,000 ongoing for moving costs and increased rent costs.			
	<u>Bureaus, Programs, Divisions - Organization Code 1111</u>				
	Hearing Aid Dispensers Bureau	2.9	2.9	$693	$724
(4r)		Augmentation of 65,000 (one-time) to automate and track the applications it receives.			
	Bureau of Home Furnishings & Thermal Insulation	29.5	29.5	3,739	3,951
(4s)		Augmentation of $213,000 for laboratory tests performed by private labs. The BCP indicates the current State lab doesn't have all the equipment necessary to perform the full range of product tests. The Bureau indicates it is less costly to contract out some tests than to purchase additional test equipment.			
	Crosscutting Bureau BCPs	na	na	na	na
(4t)		Reduction of $1.3 million (ongoing) for rent savings due to the move to a new facility.			
(4u)		Augmentation of $49,000 and 0.5 positions for the Legal Affairs Office to address workload related to the Smog Check program within the Bureau of Automotive Repair.			
(4v)		Authority for 1.0 position (to be funded within existing budgetary resources) to address workload in the Office of Examination Resources.			
(4w)		Authority to establish a Policy and Publications Development Office with 6.0 redirected staff (to be funded within existing budgetary resources). The			

		Positions		Expenditures	
		2005-06	2006-07	2005-06	2006-07
		BCP indicates this change with centralize and enhance the Department's publications efforts.			

(5) 1705 Fair Employment and Housing Commission

The Fair Employment and Housing Commission is a quasi-judicial body responsible for the promotion and enforcement of the State's civil rights laws concerning discrimination in employment, housing, public accommodations, family, medical and pregnancy disability leave, hate violence, and threats of violence. Specifically, the Commission adjudicates cases prosecuted before it by the Department of Fair Employment and Housing and promulgates regulations that interpret the Fair Employment and Housing Act.

The Governor proposes expenditures of $1.3 million ($1.1 million General Fund) and 7.0 positions for the Commission – an increase of $15,000. The Administration did not submit Budget Change Proposals for the Commission.

(6) 8260 California Arts Council

The Arts Council serves the public through the development of partnerships with the public and private sectors and by providing support to the state's non-profit arts and cultural community.

The Governor proposes expenditures of $5.1 million ($1.2 million General Fund) and 19.3 positions for the Arts Council – an increase of $1.8 million (no change in year-over-year General Fund support). The Administration submitted the following Budget Change Proposal:

(6a) **Local Assistance Augmentation (BCP #1)** – The Council requests a local assistance appropriation of $1.8 million to resume local assistance grants to support the arts. The expenditure increase is supported by higher revenue from Art License Plate sales and renewals. The Art License Plates (art-themed car license plates) have been around since 1993; however, SB 1213 (Chapter 393, Statutes of 2004, Scott) increased the car-owners' cost of the plates leading to an annual revenue increase of about $2.8 million. The General Fund supported local assistance grants through 2002-03, but all local assistance funding was subsequently eliminated by budget cuts.

(7) 8320 Public Employment Relations Board

The Public Employment Relations Board (PERB) is responsible for administering and enforcing California's public-sector collective bargaining laws and to assist employers and employees in resolving their labor relations disputes.

The Governor proposes expenditures of $5.6 million (primarily General Fund) and 41.0 positions for the Board – an increase of $31,000 (General Fund) and no change in positions. The Administration did not submit Budget Change Proposals for the Board.

(8) 8385 California Citizens' Compensation Commission

The seven-member California Citizens' Compensation Commission meets annually and is responsible for setting the salaries and benefits for State Legislators, Governor, Attorney General, Lieutenant governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, and Board of Equalization members.

The Governor proposes expenditures of $14,000 (all General Fund) and no positions for the Commission – the same amount as 2005-06. The Commission meets annually and is staffed by the Department of Personnel Administration. The Commission budget funds travel expenses and stipends for the annual meeting – Commissioners do not receive a salary.

(9) 8500 Board of Chiropractic Examiners

The Board of Chiropractic Examiners licenses and regulates the chiropractic industry. The Board also sets educational standards for recognized chiropractic colleges, reviews complaints, and investigates possible violations of the Chiropractic Act and regulations.

The Governor proposes expenditures of $3.0 million (no General Fund) and 14.9 positions for the Board – an increase of $286,000 and 1.0 position. The Administration submitted the following Budget Change Proposal:

(9a) Enforcement Staff Augmentation (BCP #1) – The Board requests a permanent augmentation of $55,000 and one position to provide clerical support related to the Board's Enforcement Program. The Board obtained authority to impose fines in 2002, and workload has exceeded expectations. Approximately 600 complaints are filed each year and about 65 of those end with disciplinary or criminal action.

(10) 8530 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun licenses and regulates maritime pilots who guide vessels entering or leaving those bays.

The Governor proposes expenditures of $1.6 million (no General Fund) and 2.0 positions – an increase of $65,000 and no change in positions. The Administration did not submit Budget Change Proposals for the Board.

(11) 8780 Milton Marks "Little Hoover" Commission

The Little Hoover Commission on California State Government Organization and Economy conducts four to five comprehensive reviews of executive branch programs, departments and agencies each year and recommends ways to improve performance by increasing efficiency and effectiveness. Additionally, the Commission is responsible for analyzing and making recommendations to the Legislature on all Governor reorganization plans.

The Governor proposes expenditures of $983,000 ($981,000 General Fund) and 8.8 positions for the Commission, an increase of $47,000. The Administration submitted the following Budget Change Proposal for the Commission:

(11a) Operating Expenses and Equipment Augmentation (BCP #1) – The Commission requests a $43,000 General Fund augmentation ($10,000 one-time) for equipment and operational expenses. Over the past few years, the Commission's budget has not been augmented to fully reflect cost increases and additionally has been reduced with statewide "unallocated" reductions. The BCP indicates that without the additional funding, the Commission will have to reduce staff by 0.5 position. The BCP states the reduction in staff would affect the ability of the Commission to complete its workload.

(12) 8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating its constituencies.

The Governor's Budget proposes expenditures of $438,000 ($436,000 General Fund and $2,000 reimbursements) and 3.9 positions – a decrease of $21,000. The Administration did not submit Budget Change Proposals for the Commission.

(13) Control Section 3.50 Benefit Charges against Salaries and Wages

Control Section 3.50 of the budget bill specifies what benefit expenditures shall be charged against appropriations from which salaries and wages are paid. The language in this control section is identical to language approved with the 2005 Budget Act.

(14) Control Section 4.01 Employee Compensation Savings

Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for savings from the Alternative Retirement Program and any budget savings achieved through new collective bargaining agreements. Similar language was included in the 2005 Budget Act.

(15) Control Section 4.11 Establishing New Positions

Control Section 4.11 requires that new positions approved in the budget be established effective July 1, 2005, unless otherwise approved by the Department of Finance. Additionally, it requires the Controller to submit monthly reports to the Department of Finance that lists new positions approved in the budget that will be abolished pursuant to Government Code Section 12439. This control section was first added to the budget in the 2004 Budget Act. Staff understands this control section was added to reduce the practice of departments delaying the establishment of new positions and using the resulting savings for other purposes.

(16) Control Section 4.20
Contribution to Public Employees’ Contingency Reserve Fund

Control Section 4.20 sets the employer’s contribution to the Public Employees’ Contingency Reserve Fund at 0.270 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. This rate is adjusted annually, as necessary, to maintain a three-month reserve in the fund. The 2005 Budget Act set the rate at 0.300 percent; however, the Administration indicates a rate of 0.270 is sufficient for 2006-07 to maintain the three-month reserve. The Control Section additionally allows the Director of Finance to adjust the rate, with a 30-day notification to the Legislature, as necessary to ensure a three-month reserve.

(17) Control Section 14.00 Department of Consumer Affairs Loans

Control Section 14.00 authorizes short-term loans (not to exceed 18 months) between special funds within the Department of Consumer Affairs. No loan can be made that would interfere with the carrying out of the object for which the special fund was created. Similar language was approved with the 2005 Budget Act. In a February 2006 letter, the Department of Consumer Affairs reported that one loan was approved in the last 12 months – a $92,000 loan from the Bureau of Automotive Repair to the Bureau of Naturopathic Medicine, which has already been repaid.

(18) Control Section 11.11 Privacy of Information on Pay Stubs

Control Section 11.00 requires that all departments distribute pay warrants and direct deposit advices to employees in a manner that ensures that personal and confidential information is protected from unauthorized access. Identical language was approved with the 2005 Budget Act.

(19) Control Section 29.00 Personnel-Year Estimates

Control Section 29.00 requires the Department of Finance to calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings must be published at the same time as the publication of: (a) Governor's Budget; (b) the May Revision; and (c) the Final Change Book. Identical language was approved by the Legislature with the 2005 Budget Act.

Staff Comment: No issues have been raised with the budgets listed above.

Staff Recommendation: Approve the budgets of the entities listed above.

Vote:

Department Budgets Proposed for Discussion

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affairs Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns.

The Boards are budgeted under organizational code 1110, and the total proposed budget is $217.3 million (no General Fund) and 1,271.4 positions – an increase of $7.1 million and 20.6 positions. The Bureaus are budgeted under organizational code 1111, and the total proposed budget is $181.2 million ($785,000 General Fund) and 1,367.3 positions – an increase of $6.3 million and 33.2 positions.

The issues listed below are cross-cutting issues that involve multiple Boards or Bureaus. Issues that relate to a single Board or Bureau are discussed under the heading of the individual Board or Bureau in the pages that follow.

(see next page for issues)

Discussion / Vote Issues

1. **iLicensing Information Technology Project (BCP #1).** The Administration requests $8.3 million over four years for an IT project with a total cost of $12.7 million (including redirected funds). Additionally, the Department requests 8.9 permanent positions for the project and $1.4 million over four years for credit card processing fees. The project would replace the existing on-line Professional Licensing system with a new iLicensing system. The existing system serves seven DCA licensing entities, but cannot be expanded to include the remaining 31 programs.

   Detail: The Feasibility Study Report (FSR) notes that DCA receives over 300,000 applications for professional licensure each year. Seven of 38 DCA licensing entities allow applicants to apply on-line, while the remaining 31 entities use paper applications. The on-line system would speed notification to initial applicants concerning whether their application is complete or deficient. The FSR indicates renewal applicants are anticipated to see a reduction in processing time from 4 to 6 weeks to approximately 7 days. The Department of Finance letter approving the FSR notes that this project has an oversight criticality rating of "high."

   The FSR lists benefits including processing efficiencies that reduce staff hours by about 26,500 hours, which would translate into a staff reduction of about 16 positions. However, no future staff reductions are associated with this proposal because the DCA indicates staff would be redirected to other backlogged projects. In addition, the FSR notes licensee growth has increased by 12 percent in the last five years with future growth expected at a similar level.

   Staff Comment: The Administration submitted a Section 11.00 and Section 26.00 letter on December 23, 2005, notifying the Legislature of their intent to begin the iLicensing project in 2005-06 with redirected resources. The Chair of the Joint Legislative Budget Committee sent a January 27, 2006 letter to the Administration indicating the project was not appropriate for those Budget Control Sections and that the funding request should be reviewed during the regular Budget Subcommittee hearing process. The DCA has since submitted a revised FSR and indicates it will submit a Finance Letter with a revised funding request.

   Staff Recommendation: Keep open, because the Administration indicates it will submit a revised funding request via an April Finance Letter.

2. Status of Special Fund Loans (Informational Issue). The following chart summarizes the outstanding special fund loans to the General Fund for Departments on today's agenda. All of these entities, except the Board of Chiropractic Examiners, are within the Department of Consumer Affairs.

Outstanding Special Fund Loans to the General Fund
($ in thousands)

Fund	Entity	Total Loans	Repaid in 03-04 & 04-05	Repaid in 05-06	To be repaid in 06-07	Total Loan Balances Remaining (Excludes Interest)
0069	Barber Cosmo	**$9,000**		$5,500	$2,600	**$900**
0108	Acupuncture	**$1,500**				**$1,500**
0239	BSIS - PSS	**$4,000**				**$4,000**
0264	Osteopathic Med Bd	**$2,600**				**$2,600**
0310	Psychology	**$5,000**				**$5,000**
0421	BAR - VIRF	**$114,000**				**$114,000**
0704	Accountancy	**$6,270**				**$6,270**
0706	Architects	**$1,800**			$1,800	**$0**
0735	Contractors	**$19,700**	$19,700			**$0**
0741	Dentistry	**$10,000**	$600	$2,500		**$6,900**
0757	Landscape Architects	**$1,225**		$1,225		**$0**
0761	Registered Nursing	**$12,000**		$5,800		**$6,200**
0767	Pharmacy	**$6,000**		$3,000		**$3,000**
0771	Court Reporters	**$1,250**				**$1,250**
0773	Behavioral Sciences	**$6,000**				**$6,000**
0775	Structural Pest	**$2,000**				**$2,000**
0779	Vocational Nurse	**$2,000**		$2,000		**$0**
0780	Psych Tech	**$1,000**				**$1,000**
3017	Occupational Therapy	**$640**				**$640**
0152	Chiropractic Board	**$4,000**			$4,000	**$0**
	TOTAL:	**$209,985**	**$20,300**	**$20,025**	**$8,400**	**$161,260**

Staff Comment: These loans do not have a fixed repayment date. Of the $8.4 million the Administration proposes to repay in 2006-07, only about $2.0 million appears necessary for expenditures and to maintain a prudent cash balance in the budget year. The Subcommittee may want to ask the Administration to explain their prioritization and long-term plan for loan repayment.

Staff Recommendation: Informational – no action necessary.

1110 California Board of Accountancy

The California Board of Accountancy regulates Certified Public Accountants and Public Accountants, as well as accounting partnerships and corporations.

The Governor proposes expenditures of $10.1 million (no General Fund) and 65.5 positions for the Board – an increase of $70,000, with no change in positions.

Discussion / Vote Issues

1. **Practice Privilege (Staff Issue).** Last year the Legislature approved a Budget Change Proposal to add 2.0 positions for workload related to SB 1543 (Chapter 921, Statutes of 2004, Figueroa), which allows individuals with accounting licensees in other states to engage in the practice of public accountancy in California (also known as Practice Privilege) under certain conditions. Last year's BCP request was based on the assumption that 1,000 individuals would annually provide notification to the Board. The Board reports that in January through February, 2,211 people notified the Board and the Board now projects about 16,000 notifications per year.

   Staff Comment: It is unclear to Staff whether the Board will be able to address the unanticipated workload with existing staff. At the time this Agenda was finalized, the Board was preparing additional information on this issue.

   Staff Recommendation: Keep the Board's budget open for further discussions.

2. **Shift of Operating Expense Funds to Personal Services.** The Board requests to shift 0.8 positions from temporary help authority to permanent position authority and to fund the cost increase of $43,000 by shifting budgeted funds from Operating Expenses and Equipment to Personal Services.

   Staff Recommendation: Keep open pending resolution of Issue #1.

1110 Board of Barbering and Cosmetology

The Board of Barbering and Cosmetology licenses barbers, cosmetologists, electrologists, estheticians, and manicurists after determining, through an examination, that applicants possess the minimum skills and qualifications necessary to provide safe and effective services to the public. Additionally, the Board conducts both routine and directed health and safety inspections of related facilities and businesses.

The Governor proposes expenditures of $15.6 million (no General Fund) and 85.9 positions for the Board – an increase of $817,000 and 3.8 positions.

Discussion / Vote Issues

1. **Exams in prison (Staff Issue).** The Board has recently discontinued the practice of providing exams in prisons. In the past, the Board would send staff into prisons to provide licensing exams to prisoners who had completed a vocational program. The intent was to provide individuals with a license prior to leaving prison so they would be immediately employable upon release. With the Administration's new emphasis on rehabilitation, staff understands there are concerns about the Board's decision to discontinue prison exams.

   Staff Comment. Staff has requested some additional information from the Board on the history of providing exams in prisons and asked if there are any budgetary savings associated with discontinuing prison exams. At the time this agenda was finalized, the information was still pending.

   Staff Recommendation: Leave issue open for further discussion.

2. **Licensing Positions (BCP #1).** The Board requests an augmentation of $215,000 and 4.0 positions to address increased workload in license applications, renewals, cashiering, and other support functions. The Board indicates 4.0 positions were added for licensing activities in 2004-05; however, the number of license applications has continued to grow (applications are expected to grown in number from 47,626 in 2003-04 to 61,894 in 2006-07).

   Staff Recommendation: Keep open pending resolution of Issue #1.

3. **Computer-Based Testing (BCP #2).** The Board requests an augmentation of $393,000 in 2005-06 and $580,000 in 2006-07 and ongoing for a higher-than-anticipated number of applicants taking exams via computer-based testing. The Board expects the number of computer-based exams to increase by 20 percent in 2005-06 and an additional 10 percent in 2006-07.

   Staff Recommendation: Keep open pending resolution of Issue #1.

1110 Medical Board

The Medical Board licenses and regulates physicians, midwives, opticians, spectacle lens dispensers, contact lens dispensers, and research psychoanalysts. The Board administers an enforcement program designed to identify and discipline potentially dangerous physicians. The Board also has oversight responsibility for the Physician Assistant Committee and the Board of Podiatric Medicine.

The Governor proposes expenditure of $49.3 million (special fund) and 259.8 positions for the Board – an increase of $4.8 million and 11.9 positions.

Discussion / Vote Issues

1. **Implementation of Senate Bill 231 (BCP #1).** Senate Bill 231 (Chapter 674, Statutes of 2005, Figueroa) implemented most of the key recommendations made by the Board's Enforcement Monitor and included a fee increase to close the Board's deficit. The Board requests funding of $3.9 million in 2006-07, $3.5 million in 2007-08, and $91,000 ongoing, for implementation of SB 231. Additionally, 0.5 permanent and 10.0 two-year limited-term positions are requested.

   Background/Detail: The Board's sunset review in 2002 revealed numerous and significant problems with enforcement and public disclosure practices. The Legislature responded by enacting SB 1950 (Chapter 1085, Statutes of 2002, Figueroa), which among other things, required the hire of an independent Enforcement Monitor to evaluate the Board and issue recommendations. SB 231 enacted many of the statutory changes necessary to implement the recommendations of the Enforcement Monitor. SB 231 specifies, among other provisions, that physicians inform the Board of court judgments and convictions; that the Board post disciplinary actions against physicians on the Internet; and that the Board is authorized to fine physicians for failure to provide requested documents.

   Staff Comment: The independent Enforcement Monitor made several recommendations which are not included in this funding request. The Monitor recommended the reestablishment of 29 abolished enforcement positions. Staff understands the Medical Board approved, at a public hearing, a BCP to restore these positions; however, the positions are not included in the Governor's Budget. Additionally, Staff understands the Board approved funding for a diversion audit and a fiscal audit (which are required by SB 231) and that funding for those purposes was deleted. Finally, staff understands the revenue estimates included in the Governor's Budget differ from those adopted by the Board.

   The Subcommittee may want to ask the Medical Board if it will be able to implement all the Monitor's recommendations with the staff levels included in the Governor's Budget, and additionally whether the Board concurs with the revenue numbers included in the Governor's Budget.

   Staff Recommendation: Keep issue open for further discussions. The funding request of the Administration does not appear sufficient to both meet the requirements of SB 231 and to implement the recommendations of the Monitor.

2. **Physician Diversion Program Staffing (BCP #2)**. The Board requests $181,000 in 2006-07 and $146,000 ongoing to fund 2.0 Compliance Specialist I positions in the Physician Diversion Program. The Physician Diversion Program is a monitoring and rehabilitation program that seeks ways and means to identify and rehabilitate physicians impaired due to the abuse of drugs or by a mental or physical illness.

   Staff Comment: The BCP indicates the Program lost one clerical position due to vacant position elimination and that the 2.0 positions are necessary to address workload growth and keep Compliance Specialist caseloads within the established standards.

   Staff Recommendation: Keep open pending resolution of Issue #1.

3. **Evidence/Witness Augmentation (BCP #3)**. The Board requests $169,000 to address increased costs for expert reviewers and witnesses. The Board investigates approximately 2,000 complaints annually, and as part of the Enforcement Program: gathers evidence; interviews witnesses; secures expert testimony; and performs case review.

   Staff Comment: Actual expenditures have exceeded funding in the Evidence/Witness line item in each of the last four years. The requested augmentation is conservative in that it provides less total funding than was expended in each of the past three years.

   Staff Recommendation: Keep open pending resolution of Issue #1.

1111 State Athletic Bureau (Athletic Commission)

The State Athletic Commission will become a bureau directly under the Department of Consumer Affairs, effective July 1, 2006, pursuant to the statutory sunset date for the Commission, and the direction of Business and Professions Code Section 101.1(b). The State Athletic Commission approves, manages, and directs all professional and amateur boxing and full-contact martial arts events.

The Governor proposes expenditures of $1.5 million (no General Fund) and 12.8 positions for the Commission/Bureau – an increase of $423,000 and 4.3 positions.

Discussion / Vote Issues

1. **Sunset of the Athletic Commission:** Statute includes a sunset date for the Athletic Commission of July 1, 2006. To date, no legislation has been approved to extend the sunset date of the Commission; however, statute also provides for the functions of the Commission to continue under a Bureau. This means that the seven member Commission is eliminated, but the staff positions continue under the direct management of the Administration through the Department of Consumer Affairs.

   Staff Comment: Staff understands that legislation may still be enacted to extend the sunset date for the Bureau (perhaps effective January 1, 2007).

   Staff Recommendation: Keep this budget open – more information may be available at the time of the May Revision hearing concerning whether the function will continue as a Commission or as a Bureau.

2. **Staffing Augmentation:** The Commission requests an augmentation of $290,000 and 4.5 positions for regulatory workload. Note, last year the Commission received $46,000 related to SB 1549 (Chapter 691, Statutes of 2004, Figueroa), which added mixed martial arts to the Commission's responsibilities. With this year's augmentation, the Commission's costs more closely reflect SB 1549 fiscal assumptions.

   Staff Comment: The Subcommittee may want to ask the Commission about their regulatory efforts concerning mixed martial arts, and whether the regulations provide an appropriate level of safety for participants.

   Staff Recommendation: Keep open pending resolution of Issue #1.

1111 Bureau of Security and Investigative Services

The Bureau of Security and Investigative Services ensures that only those who meet the prescribed qualifications to offer services as private investigators, repossessors, uniformed security guards, private patrol operators, alarm company operators, alarm agents, locksmiths, and firearm and baton training facilities be licensed, and enforces the regulations established by legislation for such licenses. The Bureau indicates that private security officers are part of the homeland security effort and receive four hours of homeland security training.

The Governor proposes expenditures of $12.0 million (no General Fund) and 63.1 positions for the Bureau – an increase of $2.0 million and 19.0 positions.

Discussion / Vote Issue

1. **Enforcement / Staffing issues.** Last year the Subcommittee received letters from the Service Employees International Union (SEIU) and from the California Association of Licensed Security Officers, Guard, and Associates (CALSAGA) requesting a staffing augmentation for the Bureau. SEIU represents labor and CALSAGA is an employer organization, and both indicated they would prefer additional enforcement and more timely enforcement instead of fee reductions. The Legislature added funding and three positions. The Governor vetoed the augmentation with the following veto message:

   I am vetoing this legislative augmentation of $238,000 and 3.0 positions for the Bureau of Security and Investigative Services. This augmentation is not based on a justified programmatic need, but rather was made because there is a growing fund reserve in the Private Security Services Fund. The growing fund balance reflects a need for the Bureau to reduce fees paid by registrants and is not a reason to increase staffing.

   Staff Comment: Staff understands that the concerns expressed by labor and industry have not been resolved. The Bureau provided historical enforcement data this year that indicates number of days the Bureau takes to close a guard complaint averaged 101 days between 1997-98 and 2003-04, but is projected to average 142 days between 2004-05 and 2006-07.

   The Subcommittee may want to ask the Bureau if additional staff is needed to bring average times for enforcement back down to historic levels.

   Staff recommendation: Keep open for further discussions.

2. **Implementation of SB 194 (BCP #1).** The Bureau requests funding of $1.4 million in 2006-07 ($1.1 million ongoing) and 20.0 positions to implement SB 194 (Chapter 655, Statutes of 2005, Maldonado), which requires proprietary private security officers, as defined, to meet specified requirements (including a criminal background check) and register with the Bureau. This request is similar to the fiscal estimates made when SB 194 was enacted ($1.5 million in first-year costs, $1.25 million ongoing).

   Staff Recommendation: Keep this item open pending resolution to issue #1.

1111 Bureau of Private Postsecondary and Vocational Education

The Bureau of Private Postsecondary and Vocational Education is responsible for overseeing and approving private postsecondary vocational and degree-granting institutions to ensure they meet specified minimum statutory standards of quality education, fiscal requirements, and student protection.

The Governor proposes expenditures of $10.3 million (no General Fund) and 54.4 positions for the Bureau – an increase of $309,000 and a decrease of 3.8 positions from adjusted 2005-06 expenditures. However, 2005-06 expenditures include savings relative to the original 2005-06 budget of $11.7 million. The savings were necessitated by insufficient funds in the Private Postsecondary and Vocational Education Administration Fund, which has an expected fund reserve of $2,000 at the end of 2005-06.

Discussion / Vote Issues:

1. **Budget Reduction (BCP #5):** The Bureau requests an operating expenses and equipment funding reduction of $194,000 to reduce expenditures to align with revenues. The BCP does not include a discussion of the local assistance reduction; however, those were adjusted down in 2005-06 from $4.3 million to $2.8 million. The Bureau indicates it cannot justify a fee increase without further research.

   Staff Comment: The Administration is requesting budget changes to reduce Bureau expenditures because “it cannot justify a fee increase without further research”. The converse question is whether a large expenditure reduction should be approved without further research. As an example, the Administration wants to shift $243,000 in operating expenses to the Student Tuition Recovery Fund (see issue #2 below), which reduces the amount available for local assistance. The local assistance funds provide monetary reimbursement to students that incur financial losses under circumstances such as the closure of a school or an institution’s failure to pay or reimburse loan proceeds under a federally granted student loan program.

   Staff Recommendation: Keep this issue open for further analysis of the proposed expenditure reductions.

2. **Fund Shifts (BCPs #1&2):** The Bureau requests to shift expenditures and positions that are currently funded from the Private Postsecondary and Vocational Education Administration Fund to the Student Tuition Recovery Fund ($243,000 and 3.0 positions) and federal funds ($184,000 and 2.0 positions). In the case of the former, the Bureau indicates this change better aligns the activity with the funding source. In the case of the federal funds shift, the Bureau indicates the 2.0 positions will change duties and perform work related to veterans' education. A motivating factor for both of these shifts is the limited revenue in the Private Postsecondary and Vocational Education Administration Fund.

   Staff Recommendation: Keep this item open pending resolution of issue #1.

3. **Centralization of Positions (BCPs #3&4).** The Bureau requests to transfer 2.0 information technology positions to the Department of Consumer Affairs centralized Office of Information Support (OIS) and 2.0 Enforcement Program positions to the Department's centralized Complaint Mediation Program. In both cases the Bureau requests no net change in funding because it is assumed the Bureau would still use the services of these four positions and would reimburse the Department for the cost of the positions.

   Staff Recommendation: Keep this item open pending resolution of issue #1.

1111 Bureau of Automotive Repair

The Bureau of Automotive Repair administers the Automotive Repair Program and the Smog Check Program. Both Programs are designed to protect consumers and discipline unethical service dealers and technicians. The Bureau also administers the Consumer Assistance Program, which provides financial assistance to eligible consumers whose vehicles fail a biennial Smog Check inspection.

The Governor proposes expenditures of $144.3 million (no General Fund) and 586.1 positions for the Bureau – an increase of $2.2 million and no change in positions.

Discussion / Vote Issues

1. **Implementation of AB 383 (BCP #1).** The Bureau requests an augmentation of $3.8 million (High Polluter Repair or Removal Account) to implement AB 383 (Chapter 565, Statutes of 2005, Montanez), which expands consumer eligibility to receive financial assistance from the State to repair a high polluting vehicle that fails its biennial Smog Check Inspection.

   Detail: The Consumer Assistance Program (CAP) includes a Repair Assistance Program and a Vehicle Retirement Program – both designed to reduce vehicle pollution. AB 383 expanded program eligibility for the Repair Assistance Program to qualified individuals whose income is up to 225 percent of the federal poverty level (from the past requirement that income fall under 185 percent of the federal poverty level). The Repair Assistance Program reduces air pollution by assisting low-income individuals in the repair of their high-polluting automobiles, by providing funding of up to $500 per vehicle. The CAP is funded from $4 of the $6 annual smog abatement fee on newer vehicles. The number of vehicles repaired under the Vehicle Retirement Program is expected to increase from 15,765 to 26,538 due to AB 383 and expanded outreach efforts. The majority of this funding, $3.5 million, would directly fund vehicle repair. The remaining $202,000 would fund program administration, specifically temporary-help positions and contract staffing.

   Staff Comment: The High Polluter Repair or Removal Account, which support the CAP, has a fund balance of $48.5 million at the end of 2006-07, up from $39.9 million at the end of 2005-06.

   Staff Recommendation: Approve the Request.

   Vote:

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing is to protect people from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence.

The Governor proposes expenditures of $20.7 million ($15.2 million General Fund) and 212.0 positions for the Department – an increase of $1.6 million and 14.2 positions.

Discussion / Vote Issues:

1. **Enforcement Division Staffing (BCP #1).** The Department requests $1.0 million (General Fund) and 13 positions to address the enforcement workload, and respond to discrimination complaints in a timely manner. The Department indicates that it has experienced a 37.1 percent decrease in investigative staffing since 2000-01 due to vacant position eliminations and budget reductions. The number of complaints filed with DFEH has declined and the Department partially attributes this reduction to extended appointment lag times.

   Staff Comment: The Department had 288 authorized positions in 2001-02, and with the augmentations requested, 2006-07 staffing would be 212 positions.

   Staff Recommendation: Approve the request.

   Vote:

2. **Information Technology Improvements (BCP #2).** The Department requests $464,000 (General Fund, $301,000 ongoing) and 2.0 positions for consulting services, equipment, and related staffing to: convert DFEH offices from DSL to T1 data lines; to establish web-based applications for making intake appointments and download forms for “Right-to-Sue” letters; and for maintenance of the DFEH’s existing technology infrastructure. The BCP indicates this would improve service to the public and increase program efficiencies.

   Staff Recommendation: Approve the request.

   Vote:

3. **Sale of Publications – Trailer Bill Language (BCP #3).** The Department requests statutory changes to allow it to produce and sell educational/information documents concerning fair employment and housing laws. Statute requires that DFEH provide one free copy of documents to employers and that multiple copies be made available for sale by the Department of General Services. General Services has recently eliminated the Publications and Stores Program, so statute needs revision to allow a non-DGS entity to sell these documents. Additionally, the Department requests an increase in expenditure authority of $32,000 for publishing costs which would be recovered when the documents are sold to the public.

   Staff Recommendation: Approve the request.

   Vote:

8800 Membership in Interstate Organizations

This item provides funding for membership in various organizations to which the State belongs, such as the National Conference of State Legislatures and the National Governors' Association.

The Governor proposes no funding for Interstate Organizations fees and dues. When these costs were last fully funded in 2001-02, the cost was $1.7 million (all General Fund). Funding was cut in half in 2002-03, and fully eliminated in 2003-04. The Department of Finance indicates it is now the Administration's intent to permanently eliminate funding for this purpose. Individual departments would have the discretion to continue to pay fees within their existing budgets if that is their choice. The below chart was provided by the Department of Finance and indicates which State entities might be expected to pay the fees (if the individual departments or budget entities so desired).

Legislature	**Council of State Governments**
Legislature	**National Conference of State Legislatures**
Forestry	**Western States Legislative Forestry Task Force**
Fish and Game	**Pacific Fisheries Legislative Task Force**
Justice	**State and Local Legal Center**
Governor's Office	**National Governors' Association**
California Coastal Commission	**Coastal States' Organization**
Governor's Office	**Western Governors' Association**
Courts/Justice	**National Center for State Courts**
Education	**Western Interstate Commission for Higher Education**
Education	**Interstate Compact for Education**
Fish and Game	**For the Sake of the Salmon**

Staff Comment: While the Legislature approved the Administration's proposal to reduce funding for this item in 2002-03, and subsequently approved budgets that provide no funding for this item, it is unclear that the Legislature intended to discontinue funding permanently.

The Subcommittee may want to ask the Department of Finance which executive branch departments have decided to pay the interstate organization fees within their existing budget authority. Additionally, the Subcommittee may want to ask Finance if any entity has received a budget augmentation for the purpose of paying these fees.

Staff Recommendation: Keep the issue open for further discussion.

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. SPB provides a variety of recruitment, selection, classification, goal setting, training and consultation services to State departments and local agencies. The Board is composed of five members, who are appointed by the Governor, and serve 10-year terms.

The Governor proposes expenditures of $19.2 million ($4.0 million General Fund and $15.1 million reimbursements) and 132.8 positions for the SPB – an increase of $728,000 ($147,000 General Fund) and 2.8 positions.

Vote-only Issues:

1. **On-Line Assistance Staffing (BCP #9).** The Board requests an augmentation in reimbursement authority of $191,000 and 2.0 new positions to provide training and assistance to State departments that access the SPB's on-line computer system for the purpose of conducting civil service examinations, processing, and maintaining civil service eligible certification lists. The BCP indicates the waiting list for training is as long as six months and the Board is often not able to respond in a timely manner to callers in need of assistance.

2. **Administrative Services Division Staffing (BCP #10).** The Board requests an augmentation in reimbursement authority of $102,000 and 1.0 position to assist with projects and the implementation of contracts. The BCP notes that the Division lost three positions due to vacant position eliminations over the past few years, but that workload has not declined.

Staff Recommendation: Approve the above two requests.

Vote:

Discussion / Vote Issues

1. **Joint SPB/Department of Personal Administration Website (BCP #3).** The Board and the Department of Personal Administration both request $100,000 General Fund (for a total of $200,000) and $50,000 each ongoing, to implement a consolidated Human Resources Internet Portal Service Center. The BCP indicates that since California's personnel management system is split between the two control entities, job seekers, State departments, and employees, often have trouble accessing information.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the Analyst recommends rejecting this request and notes, "The project is not well developed, and required planning documents have not been submitted." The LAO additionally notes that the SPB currently has 2.5 positions, and the Department of Personnel Administration has 0.5 position, devoted to the management of their respective websites.

   State Policy for IT Projects: Under state policy, Feasibility Study Reports (FSRs) are required for most IT projects. The FSR addresses technical issues, defines risks to cost and schedules, and provides other valuable information that far exceeds the detail provided in a Budget Change Proposal (BCP). Last year, the Legislature noted an increasing number of FSRs submitted after the BCPs were submitted – sometimes the FSR was submitted just days or weeks in advance of the budget Subcommittees hearings. In some cases, FSRs were not submitted at all and the Administration requested the Legislature approve funding without the benefit of information provided in the FSR. In response, the Legislature added Control Section 11.05 to last year's budget which, among other requirements and findings, stated the following:

   "*For the Budget Act of 2006, it is the intent of the Legislature to not approve additional funding for new or modified information technology projects that have not been approved or delegated by the Department of Finance prior to or upon budget submission to the Legislature*."

   Staff Comment: The project BCP was submitted on January 10, 2006, the Finance delegation letter was dated March 2, 2006, and the internal FSR was submitted to the Legislature on March 14, 2006. If the Subcommittee desires to act consistently with the intent stated in Control Section 11.05, it will reject this BCP. This project does not appear to be of a sufficient critically to diverge from last year's stated intent. Additionally, with 3.0 staff devoted to website management, the two departments may be able to make some website improvements with existing staff.

   Staff Recommendation: Reject the request.

   Vote:

1920 State Teachers' Retirement System

The State Teachers' Retirement System (CalSTRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system. Unlike public employees covered under the California Public Employees' Retirement System (CalPERS), CalSTRS members do not participate in the social security system.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalSTRS Board with authority over the administration of the retirement system. However, the CalSTRS operations budget is still a Budget Act appropriation which the Legislature adopts. The CalSTRS operations budget is $116.6 million and 710.7 positions, a decrease of $5.0 million and an increase of 39.5 positions. When benefit payments are included, the total budget is approximately $7.8 billion.

While this budget item reflects CalSTRS expenditures, budget item 6300 (which is heard in Budget Subcommittee #1 on Education) displays the State's annual teachers' retirement contributions. The State funds teachers' retirement based on two statutory formulas:

- Benefits Funding – the State's contribution is based on 2.017 percent of the teachers' salaries. The 2006-07 cost is budgeted at $483 million General Fund.
- Supplemental Benefit Maintenance Account – The State's contribution is fixed at 2.5 percent of teachers' salaries and is intended to provide retiree purchasing power protection. The 2006-07 cost is budgeted at $598 million General Fund.

Staff Comment: While the Governor proposed reductions to teachers' retirement funding in the 2005-06 budget, the Legislature rejected those cuts. The Governor's 2006-07 budget does not propose any cuts for teachers' retirement, and funding is budgeted at the level dictated by statutory formula.

Discussion / Vote Issues

1. Submission of Budget Information. CalSTRS, in the past, submitted Budget Change Proposals in January with other State departments. This year no BCPs were submitted. Staff requested BCP documents, which were provided, but they contain less fiscal and narrative detail than a typical BCP.

   Staff Comment: CalSTRS should be prepared to explain why they have stopped submitting BCPs to the Legislature and why the detail has been reduced.

   Staff Recommendation: Keep this issue open for further discussion.

2. **School Land Bank Fund:** In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the balance in the School Land Bank Fund be transferred from the State Lands Commission (heard in Senate Budget Subcommittee #2) to CalSTRS. Trailer bill language would be required to make this transfer. The balance of the School Land Bank Fund is expected to total $59 million at the end of 2006-07. It is anticipated the CalSTRS would earn a better investment return than the State Lands Commission.

   Background. The State Lands Commission manages lands that were given to the State by the federal government in order to help support public education. Lease revenues from these lands are deposited in the Teachers' Retirement Fund administered by CalSTRS. The State initially sold many of the lands granted by the federal government; but, in 1984, the Legislature enacted the School Land Bank Act that allowed the Commission to re-invest proceeds of land sales in the School Land Bank Fund to purchase other property and enhance lease revenues for CalSTRS. The Commission currently owns about 400,000 acres of land under this program – the majority of the property is in the desert areas of the state.

   The LAO indicates that the Commission has expended almost no money from the School Land Bank Fund to purchase additional property in the past several years. Therefore, lease revenues to CalSTRS have not been enhanced by activities funded by the School Land Bank Fund.

   Staff Comment: Budget Subcommittee #2 heard this issue on March 6, 2006, and kept it open for additional analysis. CalSTRS and the Administration should be prepared to discuss this issue and indicate if it would materially affect CalSTRS asset levels.

   Staff Recommendations: Keep CalSTRS budget open. Direct staff to continue to follow this issue in Subcommittee #2 and bring the issue back on a future agenda as appropriate.

Control Section 31.00 Administrative Procedures for Salaries and Wages

Control Section 31.00 specifies Department of Finance oversight responsibilities concerning salaries and wages, and the establishment of positions. The control section also establishes notification requirements for the Administration to report to the Legislature when positions are administratively established and when a position is re-classed to a position with a minimum salary step exceeding $6,334 per month.

Staff Comment: The Subcommittee heard the Department of Managed Health Care's budget on March 8, 2006, and discussed 15 positions that were administratively established for the Department in 2005-06 and that the Department anticipated would continue into 2006-07. The Department's interpretation of Control Section 31.00 is more permissive that the interpretation of the Subcommittee Staff and the LAO.

Staff Recommendation: Keep this item open and direct Staff to work with the LAO and the Administration to see if clarifying amendments are needed to this control section.

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) represents the Governor as the “employer” in all matters concerning State employer-employee relations. The Department is responsible for all issues related to salaries, benefits, position classification, and training. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

The Governor proposes expenditures of $91.2 million ($34.2 million General Fund) and 218.3 positions for DPA – an increase of $5.5 million and 11.4 positions.

Vote-Only Issues:

1. **Joint DPA/State Personnel Board Website (BCP #3).** The Department and the State Personnel Board (SPB) both request $100,000 General Fund (for a total of $200,000) and $50,000 each ongoing, to implement a consolidated Human Resources Internet Portal Service Center. The BCP indicates that since California’s personnel management system is split between the two control entities, job seekers, State departments, and employees, often have trouble accessing information.

   Staff Recommendation: Conform to action taken for this issue with the State Personnel Board (see page 29)

   Vote:

2. **Retiree-Paid Vision Benefit (BCP#3).** The Department requests $82,000 in reimbursement authority and 1.0 position to implement a new enrollee-paid vision benefit for State retirees. DPA currently provides vision care benefits to approximately 177,000 active State employees. This proposal would offer the same benefit to annuitants and State costs would be fully reimbursed by enrollee fees.

   Staff Recommendation: Approve the request.

   Vote:

Vote-Only Issues - Continued:

3. **Legal Services Division – Fee Increase (BCP #2).** The Department requests increased reimbursement authority of $1.3 million for legal services that DPA performs for other State departments. The DPA instituted new legal service rates, effective July 1, 2005, that tie to the rates charged by the Attorney General's (AG's) office. DPA indicates it has historically tied the salaries of its exempt attorneys to the represented attorneys at the AG's office. Therefore, DPA costs and rates fluctuate in concert with the AG's office. This BCP is driven by the DPA's discretionary policy decision to continue to tie to the AG salaries.

   Staff Recommendation: Approve the request.

   Vote:

4. **Legal Services Division – Staffing Increase (BCP #4).** The Department requests increased reimbursement authority of $852,000 and 6.0 positions to support the level of workload within the Legal Division. The BCP indicates the Legal Division had 51 positions in 2000-01 and elimination of vacant positions and budget reductions have reduced staff to the current level of 39 positions. Additionally, the Department indicates legal workload will grow 66 percent between 2000-01 and 2006-07.

   Staff Recommendation: Approve the request.

   Vote:

Discussion / Vote Issues

1. **State Classification System Assessment and Business Plan (BCP #1).** The Department requests $1.0 million (one-time General Fund) to hire consultants to assess the current State classification system, provide recommendations for maintenance or change, and develop a comprehensive strategy and business plan for implementation of reform.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the Analyst recommends rejecting this request and notes, “If the administration wants to implement such civil service reform, it should propose a comprehensive plan to the Legislature instead of spending money to study piecemeal, incremental changes.”

   Staff Comment: The BCP provides very few specifics on what type of “reforms” are anticipated. The Department does refer to past studies and recommendations from the California Performance Review (CPR) and the Little Hoover Commission, but does not indicate which recommendations the Administration embraces and which it rejects. The CPR report notes that the DPA developed a proposal in the mid-1990’s to consolidate 326 managerial classifications into 13. However, there was opposition from the California State Employee’s Association and the Davis Administration, and the proposal did not more forward. Given the past controversy with reform efforts, it is unclear that the $1.0 million plan the Administration is requesting would be implemented.

   Staff Recommendation: Reject the request – given the failure of reform efforts in the mid-1990’s, the Administration should produce a plan and seek Legislative concurrence prior to moving forward with large expenditures.

   Vote:

2. **State Workforce Planning Staffing (BCP #2).** The Department requests $140,000 (on-going General Fund) and 1.0 position to act as the State Workforce Planning Administrator to coordinate and manage the provision of workforce and succession planning consultation and training services for State departments.

Staff Comment: The BCP suggest that most of the planning workload will be borne at the individual department level, sometimes with the assistance of private resources who offer workforce and succession planning consultative and training services. The requested position would be a central resource for departments and also make sure private resources included in the Master Service Agreement are oriented to the California State Government Workforce Planning Model. The Master Service Agreement, itself, is being developed by the Department of General Services.

LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the Analyst recommends rejecting this request and notes, "Hiring a single individual to provide consulting and assistance services to departments would be an ineffective response to this issue….. The administration may wish to consider a more comprehensive approach to this issue."

Staff Recommendation: Reject the proposal – since the primary responsibility for workforce planning is at the department level, and some DPA and State Personnel Board resources are already available to consult on this issue, the marginal benefit of this position is unclear.

Vote:

3. **Savings Plus Program – Administrator Costs (BCP # 1).** The Department requests a progressive funding increase of $1.7 million in 2006-07, growing to $3.2 million in 2010-11 (special fund), to fund third-party Administrator costs for providing recordkeeping and trustee services to the State's 457, 401(k) Defined Contribution Plans and Alternative Retirement Program (401(a)) plans. The BCP indicates that the State and Nationwide Retirement Solutions entered into a 5-year contract in January 2006. Funding for the third-party costs comes from plan participants – either from monthly administrative fees or reimbursements received from the programs' investment providers.

   Staff Comment: DPA indicates that the only compensation Nationwide Retirement Solutions receives for their management services is through the payments included in this BCP. In this case, the payments are funded through participant fees. DPA notes that overall program expenses are allocated on a relatively even distribution between participant fees and revenue received from investment providers.

   Staff Recommendation: Approve the request.

   Vote:

4. Alternate Retirement Plan (Informational Issue). The Alternate Retirement Plan (ARP) was established by SB 1105 (Chapter 214, Statutes of 2004, Committee on Budget and Fiscal Review). Under ARP, new employees to the State hired after August 10, 2004 are enrolled in the ARP during their first two years of service and are thereafter enrolled in CalPERS. The State does not make retirement contributions during the ARP period, but the employee contributes 5 percent of their salary to a 401(a) saving plan. Continuing State employees elect, on the 47^{th} month of their employment, one of three options:

- **a.** Transfer all funds in their ARP account to CalPERS to buy retirement service credit for the time they were enrolled in ARP. The State then funds the portion of the CalPERS liability not paid for by that transfer.
- **b.** Receive a lump-sum distribution of all funds in the ARP account, which may subject the employee to tax penalties for early withdrawal.
- **c.** Transfer all funds in the ARP account to a 401(k) account with the Savings Plus Program. This options occurs automatically if the employee does not return a form stating a preference between the 47^{th} and 49^{th} month of employment.

Staff understands that there are over one thousand individuals who started State service under ARP that have since left State employment. Prior to the implementation of ARP, individuals who separated from the State prior to retirement vesting could withdraw their CalPERS contributions within a matter of weeks. The DPA has set up ARP in such a way that individuals who now separate from the State have to wait to the 47^{th} month after their hire to withdraw their ARP contributions.

Staff Comment: Staff understands that DPA is working to improve the ARP to allow individuals who separate from the State (under ARP), to withdraw their contributions in a more timely manner. The Department should be prepared to discuss the program improvements they are working on and when the new process will be implemented.

Staff Recommendation: Information issue – no action is needed.

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for those costs that exceed the baseline costs already included in individual department budgets. Generally, this item includes employee compensation funding based upon approved Memoranda of Understanding with the State's 21 bargaining units and funding for health benefit inflation. Also included is compensation increases for excluded employees as is determined by the Department of Personnel Administration or other authorized entities.

The Governor proposes funding of $382 million ($203 million General Fund) for employee compensation augmentations. In the *Analysis of the 2006-07 Budget Bill*, the LAO notes that $303 million of this amount is for contractual raises for four bargaining units with existing contracts (Unit 7 – Protective Services and Public Safety, Unit 9 – Professional Engineers, Unit 5 - Highway Patrol, and Unit 6 – Corrections) and one unit (Unit 2 – Attorneys, Administrative Law Judges, and Hearing Officers) with a MOU awaiting legislative action. The LAO additionally notes that the Administration includes $68 million associated with the *Plata v. Schwarzenegger* lawsuit and does not include any funding for the health premium inflation.

Discussion / Vote Issues:

1. **Plata v. Schwarzenegger Lawsuit.** The Administration requests funding of $68 million ($57 million General Fund) to increase the pay of State-employed doctors and nurses. The *Plata* case concerns constitutional violations related to medical care in State correctional facilities. On December 1, 2005, the federal judge in the case ordered the State to immediately increase compensation for several classes of prison medical personnel.

   LAO Recommendation: The LAO indicates that only $21 million of the $68 million requested is necessary to comply with the *Plata* ruling. The remaining $47 million is for proposed for pay raises for doctors and nurses in non-corrections departments, who are not subject to the court order and who would normally receive pay increases through negotiated bargaining unit agreements. The LAO recommends the Legislature reduce this item by $47 million and that non-required compensation for all other medical personnel should be handled through the collective bargaining process, consistent with state law.

   Staff Comment: The Administration and the LAO should be prepared to discuss their view concerning the amount of money placed in this item for the *Plata* ruling.

   Staff Recommendation: Keep this issue open for further discussions.

2. **Excluded Costs – Healthcare and Benefits:** The LAO notes in their *Analysis* that this item does not include costs related to health insurance premium increases. The Department of Finance indicates these excluded costs are $122 million for rank and file and about $24 million for excluded employees – for a total of $146 million (about $60 million of the total is General Fund). The Governor's Budget would force departments to reduce other expenditures to absorb the $146 million health and benefit cost increases. The $146 million in higher costs departments would have to absorb is another unallocated reduction to baseline activities, which is in addition to the actual budget decreases that would occur with Control Section 3.45 and 4.05.

   Staff Comment. The $146 million in higher costs departments would have to absorb is another unallocated reduction to baseline activities, which is in addition to the actual budget decreases that would occur with Control Section 3.45 and 4.05. The Subcommittee may want to ask the Administration and the LAO how an unfunded $146 million cost will affect department activities.

   Staff Recommendation: Keep this issue open for further discussions.

3. **Excluded Costs – Bargaining Units without Contracts:** The Administration does not include any funding for possible new MOUs with the 16 bargaining units that are currently working with an expired contract, or will have an expired contract on July 1, 2006. The LAO indicates that every one-percent salary increase for these expired/expiring contract units could increase State costs by about $120 million.

   Staff Comment. The costs included in this budget item are not consistent from year-to-year. While the recent practice has been to exclude funding for possible new MOUs, the *2002-03 Governor's Budget Summary* indicates that the prior Administration did include funding for 6 units that were in continuing negotiations and did not have MOUs. The Administration indicates that it excludes any cost from possible future MOUs to preserve the confidentiality of the Administration's negotiating strategy. Since legislation enacting new MOUs can include first-year funding for any new salary costs, funding is not strictly necessary in the 9800 budget item. However, if increased costs are anticipated and not included here, the budget reserve would tend to be exaggerated.

   Staff Comment: The Subcommittee may wish to ask the Administration about the status of ongoing negotiations with State bargaining units and why the Administration chose to exclude cost related to possible new MOUs.

   Staff Recommendation: Keep this issue open. Additional MOUs may be signed by the time of the May Revision. Additionally, the Administration typically submits a May Revision Finance Letter to adjust the salary of judges.

CalPERS–Related Public Employment Issues

1900 Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) administers retirement and health benefits for more than 1.4 million active employees and retirees of State and local agencies. Benefits include: retirement, disability, and survivor's retirement benefits; Social Security for State employees; and the development, negotiation, and administration of contracts with health maintenance organizations, group hospitals, and medical insurance plans.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalPERS Board of Administration with authority over the administration of the retirement system. Therefore, the CalPERS budget item is presented to the Governor and Legislature for informational purposes, with the exception of the component of the Health Benefits Program, which is not covered by the Constitutional provision. On March 14, 2006, the CalPERS Finance Committee accepted, as a first reading, the proposed 2006-07 operations budget of $261.8 million and 1,924 positions – an increase of approximately $11.2 million and 66 positions. Note, this operations budget is about $6.5 million more that the earlier estimate included in the Governor's Budget. When benefit expenditures are added, the total budget is approximately $12.3 billion. The Board of Administration will vote on the CalPERS budget at the April 19, 2006 meeting.

While this budget item reflects CalPERS expenditures, the following two separate budget items reflect the State's annual retirement contributions:

- Item 9650 – Health and Dental Benefits for Annuitants – This budget item funds retiree health and dental benefits on a pay-as-you go basis. The 2006-07 cost is budgeted at $1.0 billion General Fund.
- Budget Control Section 3.60 – This budget item sets the State's retirement contribution rates. The 2006-07 cost is budgeted at $2.5 billion ($1.4 billion General Fund).

Item 9650 and Control Section 3.60 are separate items in the discussion section of this agenda.

Staff Comment: CalPERS should be prepared to respond to any questions the Subcommittee has on the CalPERS Administrative Budget. Issues related to Health and Dental Benefits and the States retirement contribution are addressed on the following pages.

Staff Recommendation: Keep the CalPERS budget open, pending the CalPERS Board of Administration April 19, 2006, action on the 2006-07 Budget Proposal.

9650 Health and Dental Benefits for Annuitants

The Health and Dental Benefits for Annuitants budget item provides the State's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with requirements of Government Code. The cost of this benefit is estimated by the California Public Employees' Retirement System (CalPERS). The budgeted amount is $1.0 billion (all General Fund – although the State recovers about one-third of these costs from special funds through pro rata charges) – an increase of $124.2 million (14 percent) from the current year. According to the LAO's *Analysis of the 2005-06 Budget Bill*, the increase reflects growth of 4.7 percent in enrollment and growth of 9.5 percent in health care inflation.

According to CalPERS, this expenditure forecast is traditionally updated in June, after contract negotiations with health plans are completed. The budget bill is updated to reflect the new estimates through a Department of Finance technical correction, upon approval by the Legislature.

Discussion / Vote Issues:

1. **Negotiations with Health Plans (Informational Issue).** CalPERS annually enters into contracts with health care providers to provide care to annuitants. The cost split between annuitants and the State is set by Government Code 22871, which establishes a "100/90" formula. Under the formula, the average premiums of the four largest health plans sets the maximum amount the State will contribute to an annuitant's health benefit. The State contributes 90 percent of this average for the health benefits of each of the retiree's dependents.

   Staff Comment: Staff understands that CalPERS has adopted a number of initiatives in recent years, such as attempting to build a coalition with other large purchasers, to cut the rapid rise in premium rates. CalPERS should be prepared to describe these efforts and what success they have achieved. Additionally, CalPERS should inform the Subcommittee when the new negotiated health care rates, and the resulting budgetary adjustments, will be available to the Legislature.

   Staff Recommendation: Informational Item, no action needed.

2. **New Government Accounting Rules: Pre-funding Retirement Healthcare.** The *2006-07 Budget: Perspectives and Issues* from the LAO, includes a discussion about the growing cost to the State of retiree health care. In addition to rising costs of health care premiums, the State faces a major budgetary change from new government account rules – specifically Governmental Accounting Standards Board Statement 45 (GASB 45). Among other provisions, GASB 45 requires government financial reports to quantify the unfunded liabilities associated with retiree health benefits. To be GASB 45 compliant, the State will have to estimate and report unfunded retiree health benefits with financial reports in 2009 that provide account records for the 2007-08 fiscal year. While most state governments, including California, have pay-as-you-go retiree healthcare, GASB 45 will likely lead to a number of states prefunding these benefits.

   LAO Recommendation: The Analyst estimates that the State's unfunded retiree health liabilities are in the range of $40 billion to $70 billion. The liabilities for the University of California, local governments, and school districts could exceed those of the state government. The Analyst recommends approving the budget request for the State Controller's Office to perform a retiree health care actuarial analysis, and establishing a state working group to report to the Legislature on options for funding and reducing costs of retiree health benefits. Additionally, the LAO recommends that the Legislature consider beginning to partially pre-fund retiree healthcare starting in 2007-08, and then ramp up to an increased level of contributions over a period of several years.

   - To begin pre-funding based on the normal cost (the amount that needs to be set aside in order to fund future retiree health benefits earned in the current year) the additional cost to the State would be in the range of $1 billion.
   - To convert to a fully pre-funded system over 30 years, the annual increase in cost to the State would be in the range of $6 billion (until the 30-year period ends).

   Staff Comment: The Subcommittee may wish to ask the LAO to summarize their report and recommendations and ask the Administration to respond.

   Staff Recommendation: Keep the 9650 Budget Item open – revised cost figures may be available with the May Revision of the Governor's Budget.

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in the California Public Employees' Retirement System (CalPERS). This section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform to changes in these rates. The State's contributions to CalPERS in 2006-07 are currently estimated at $2.5 billion ($1.4 billion General Fund) – an increase of $54 million over 2005-06. The following table provides proposed rates with historical comparisons, and is copied from the LAO's *Analysis of the 2006-07 Budget Bill*.

Figure 2

State Retirement Contribution Rates

1991-92 Through 2006-07 (As Percent of Payroll)

Fiscal Year	Misc. Tier 1	Misc. Tier 2	Industrial	Safety	Peace Officer/ Firefighter	Highway Patrol
1991-92	11.8%	4.0%	13.4%	17.4%	17.4%	21.7%
1992-93	10.3	3.4	12.0	15.7	15.6	17.1
1993-94	9.9	5.0	11.8	15.5	15.2	16.9
1994-95	9.9	5.9	10.6	13.9	12.8	15.6
1995-96	12.4	8.3	9.0	14.2	14.4	14.8
1996-97	13.1	9.3	9.3	14.7	15.4	15.9
1997-98	12.7	9.8	9.0	13.8	15.3	15.5
1998-99	8.5	6.4	4.6	9.4	9.6	13.5
1999-00	1.5	—	—	7.5	—	17.3
2000-01	—	—	—	6.8	2.7	13.7
2001-02	4.2	—	0.4	12.9	9.6	16.9
2002-03	7.4	2.8	2.9	17.1	13.9	23.1
2003-04	14.8	10.3	11.1	21.9	20.3	32.7
2004-05	17.0	13.2	16.4	20.8	23.8	33.4
2005-06	15.9	15.9	17.1	19.0	23.6	26.4
2006-07[a]	15.7	15.7	17.0	18.9	23.4	26.3

[a] California Public Employees' Retirement System estimates.

Staff Comment: The above rates show significant annual fluctuations, which is primarily based on the investment market. The rates in 2005-06 and 2006-07 reflect CalPERS new rate stabilization policy, which builds gains and losses in the value of assets into the actuarial calculation of the plans' asset value over 15 years instead of the three years of the prior policy. While the rates fall slightly in 2006-07, due to investment growth, the overall State contribution rises by $54 million because of payroll growth.

The budget reflects the budget assumption that no pension obligation bonds (POBs) will be sold in either 2005-06 or 2006-07. In 2004, the Legislature enacted a law authorizing the sale of up to $2 billion in POBs to fund the State's CalPERS obligation. Litigation has delayed the issuance of bonds and the Administration has reduced the assumed bond proceeds – The 2005 Budget Act assumed bond proceeds of $525 million from a 2005-06 issuance. The Administration is currently appealing a November 2005 Sacramento Superior Court decision that found the bonds unconstitutional. The State has paid its CalPERS obligation in advance of the bond sale, so the practical affect of delay in bond issuance is the State not receiving reimbursement through the bond proceeds.

CalPERS determines the rates in this section, and will update these rates with the May Revision of the Governor's Budget.

Staff Recommendation: Hold this item open pending the May Revision forecast.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, March 23, 2006
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Dave O'Toole

"A" AGENDA

Item Number and Title **Page**

Vote-Only Budget Item

Discussion Items

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

VOTE-ONLY BUDGET ITEM

9100 Tax Relief

California offers a variety of tax relief programs by appropriating funds through a reduction in rates or nonrefundable tax credits. For example, tax relief is provided to individuals who agree to hold their land as open space under the Williamson Act of 1965 and through payments to cities and counties to help defray revenues lost as a result of tax relief programs. Proposed Tax Relief expenditures are $671.4 million and no positions.

Key items included in the budget are:

- *Program Expenditure Adjustments.* The Governor's budget includes a net reduction of $3.9 million General Fund in the budget year for adjustments to reflect estimated participation in the Senior Citizens' Property Tax and Renters' Tax Assistance Programs, the Senior Citizens' Property Tax Deferral Program, and the Homeowners' Property Tax Relief.

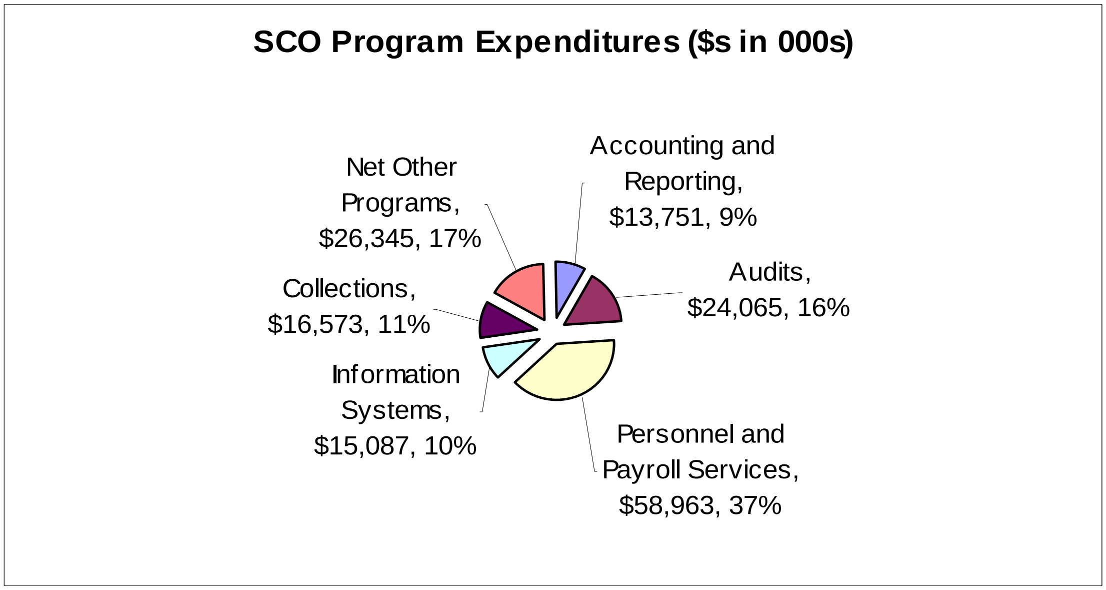
- *Williamson Act.* The Governor's budget fully funds the Williamson Act subventions for open space preservation at $39.6 million.

VOTE ON VOTE-ONLY ITEM 9100:

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. The Governor's budget funds 1,142.3 positions (including 54.7 new positions) and $27.8 million in expenditures.

The chart below displays SCO expenditures by function:



VOTE ONLY ISSUE:

A. Other Post Employment Benefits (OPEB)/Generally Accepted Accounting Principles (GAAP) Compliance.
The SCO requests $252,000 (special, non-governmental, and bond funds) and one position two-years limited-term for increased workload to remain GAAP compliant in producing various annual financial reports. These reports are required by Government Code and by federal Governmental Accounting Standards Board financial reporting standards. The LAO has recommended funding this proposal as an important step in better quantifying public employee pension costs that would enable the Legislature to better understand the magnitude of the state's unfunded liabilities.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

VOTE:

DISCUSSION ISSUES

1. Unclaimed Property Program Staffing. The SCO requests $554,000 General Fund and 7.2 positions to handle increased workload associated with notifying owners of unclaimed property, facilitating auctions of safe deposit boxes, and providing operational support to Unclaimed Property Program management. The SCO's request consists of the following three components:

- 2.6 permanent positions for increased workload associated with the mailing of Franchise Tax Board (FTB) notices to owners of unclaimed property.
- 2.1 permanent positions for workload associated with the auctions of safe deposit box contents.
- 2.5 permanent positions for operational support to the Unclaimed Property Program (UCP) management.

The SCO has explained that if the unclaimed property workload positions for FTB notices and auctions are not approved service delivery and unclaimed property auctions would be degraded. Unclaimed property auction revenues would decrease from $1.6 million to $1 million annually by 2007, based on reduced capacity to operate online auctions.

Staff Comment: The Budget Change Proposal (BCP) notes that in the last two years the UCP has been able to redirect 14 positions for FTB notices and safe deposit box resolution workloads, but that ongoing redirections will undermine their ability to meet other workloads. A redirection equal to five percent of approximately 128 program personnel is considerable. Of the 14 redirections, nine occurred within the Division of Collections (which includes the UCP) and five positions were redirected from other divisions.

The 2.5 operational support positions are a new workload request. The proposed staff would conduct legal research, fraud detection and prevention, special projects, customer service, legislation, and other staff work.

Recognizing the SCO's considerable capacity for staff redirections, redirections may also be used for the new operational support activity, perhaps using staff previously redirected from other divisions. Furthermore, many of the proposed operational support activities are germane to other divisions (e.g. legal research, fraud detection, legislation, and customer service) and could be absorbed by, or using staff from, other SCO divisions.

Staff notes that while Unclaimed Property Program activity has surged in recent years, the ongoing workload is less certain as more citizens learn how to recover their property and new technological capacities to reunite owners with their property become available.

The Legislature should revisit workload trends for FTB notice positions (2.6) and safe deposit box positions (2.1) at a later date and ascertain whether redirections may again be possible.

Staff Recommendation:

1. AMEND the request for 2.6 FTB notice positions and 2.1 safe deposit box unit positions, by making them three-year limited-term.

2. REJECT the request for 2.5 positions for operational support.

VOTE:

2. Bank Reconciliation System Project. The SCO requests $710,0000 ($308,000 General Fund) to replace the State Controller's existing bank reconciliation system. This system tracks and issues bank warrants for the state, interacting with the State Treasurer, Department of Finance, Department of Motor Vehicles, CalSTRS, CalPERS, and the Franchise Tax Board. The SCO asserts that the technology of the current system is obsolete and technicians to maintain the system increasingly scarce. The proposed solution will use the services of a data conversion company to convert the existing database into a more modern and functional format.

Staff Comment: Considered alongside SCO requests for additional funding to replace the Apportionment Payment System and Human Resource Management System (both BCPs to be considered later by the Subcommittee), this BCP suggests that the SCO has adopted a piecemeal approach to IT projects and has no discernable plan to replace their antiquated IT systems. The SCO reported that they have over 70 IT systems needing replacement (some portion of those will be rolled into other projects) and that the BankRec system is their next top priority.

The SCO operates automated systems to provide services to the state (primarily through fiscal and human resource management systems), local governments (through fiscal and reporting systems), and citizens (through the unclaimed property system). When asked by staff for an overall plan to replace systems, the SCO stated that they are currently operating under the recommendations outlined in the 2002 IT infrastructure study by Gartner Consulting.

The Gartner report was developed in the wake of the budget and energy crises of 2002. At that time the SCO's most ambitious IT upgrade, the HRMS project, had just been cancelled due to excessive cost. Acknowledging these fiscal constraints, the Gartner Report provided a five to seven year plan for the SCO to use for modernizing the SCO's technology infrastructure. The central recommendation was that SCO should "incrementally modernize its existing systems and then exploit that modernization for direct business gain." The Gartner report did not provide a priority listing for the replacement of specific IT systems.

Following the state's improved revenue picture, the SCO did not strictly adhere to the Gartner study recommendation. Rather than modernizing existing systems, the HRMS project was reinstated (and now approaches the initial rollout stage), the Unclaimed Property system was replaced, the Apportionment Payment System is in the process of being replaced, and SCO now seeks to replace its BankRec system.

Without an overall plan to replace the legacy systems or priorities to consider, the Legislature may face one or more IT replacement project BCPs every year until all 70 are replaced. A better approach would be for the SCO to inventory, prioritize, and identify systems that might appropriately be consolidated based on the interaction of the processes they support. To propose replacement without this underlying analysis may overlook the possibility of an enterprise-wide approach enabled by current technology.

The SCO should make these priorities public and well known to all current stakeholders. The problem with not making IT priorities public is evidenced with the delayed implementation of the Human Resources Management System (HRMS) project. The uncertainty over when that system would be replaced led many departments to implement their own systems, creating a dissimilar patchwork of human resource tracking that must now be replaced. With a public plan and timelines, state and local agencies will be better able to prioritize their own IT procurements.

Staff Recommendation: HOLD OPEN and request the SCO report to the Legislature on:

1. All IT projects needing replacement, project timelines, anticipated cost, and other information necessary to provide a comprehensive legacy systems replacement plan.
2. The steps the SCO intends to take to inform stakeholders of IT replacement plans.

3. CalATERS

The SCO is currently implementing, maintaining, and rolling out the California Automated Travel Expense Reimbursement System (CalATERS), a computer system that automates the previously manual process of reimbursing state employees for travel costs. The benefits of using CalATERS include allowing state employees to submit travel claims easily, improved accuracy through automation, and centralized audits of travel rules and departmental policies. The CalATERS program began in July 2000 and has now been implemented in dozens of departments, affecting more than half of state employees.

Staff Comment: In the original Feasibility Study Report (FSR), the CalATERS BCPs approved in 2004-05 and 2005-06, and in the most recent IT Special Project Report (SPR), the SCO asserted that between $8 and $9 million in savings would be achievable by implementing CalATERS statewide. In the CPR, the SCO's staff identified a savings level of $9.3 million, noting that that CalATERS reduces processing time from two weeks to five days for a typical expense claim.

A May 1995 SCO report, *Automated Travel Reimbursement Process Study*, is the basis for all savings estimates identified for shifting from paper to automated claims. In 1995 the state was spending over $180 million annually for travel-related expenses and $16 million to process claims at all departments. The report identified a 47 percent statewide cost reduction ($7.8 million at the time) for shifting to a statewide automated system.

During recent discussions with staff, the SCO has declined to confirm the savings level previously identified. The SCO has asserted that with departments absorbing 100 percent of the development and maintenance costs, benefits should stay with those departments. Staff notes that while *one-time* development costs were borne by most departments, *ongoing* operational costs are borne by the departments that use CalATERS, through a $6 fee per transaction.

According to the SCO, any savings achieved through the conversion to CalATERS have most likely been redirected by departments, citing recent unallocated reductions as places where those savings were needed. (Staff notes that most of the unallocated reductions were one-time and that ongoing savings should still accrue.) If any department wants to voluntarily identify savings, the SCO plans to issue a customer satisfaction survey in the fall of this year to allow them to do that.

Within the SCO (where all travel claims must eventually go), efficiencies have occurred, primarily in claims audits and processing workloads. CalATERS has allowed the SCO auditors to conduct more audits, rather than reduce audit staffing. The SCO has recognized the benefits of automated claims by devoting their best travel claims auditors to those claims flagged by the system. In processing workloads (paying individuals and departmental revolving funds), no savings have been recognized.

Significant savings still appear achievable. According to the SCO, even though CalATERS has rolled out with over half of departments, approximately 80 percent of their claims are still submitted by paper. If CalATERS were rolled out statewide, the auditing workload could decrease further.

In light of the department's requests for ongoing support for the Human Resources Management System (from which the department identified $3 million in annual statewide savings) as well as other future legacy system replacement requests where savings may occur, the Legislature should have a better understanding of how to evaluate SCO BCPs where savings are indicated.

Staff Recommendation: Request the SCO report on:

1. What portion of the $9 million savings identified in the BCPs, an FSR, SPR, and the CPR can be recognized and by what time.

2. CalATERS-related savings identified to date at all departments and within the SCO.

3. Savings estimates (based on number of claims) for departments that will be brought into CalATERs.

4. Any policy or fiscal considerations to requiring that CalATERS be incorporated by (a) all departments, and (b) all departments that receive General Fund.

8885 Commission on State Mandates

The Commission on State Mandates is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. The Governor's budget funds 14 positions (with no new positions) and expenditures of $243.4 million.

The budget includes $241.6 million ($240 million General Fund) to local governments for mandate costs. That sum contains the following five components:

- Payment of $48.0 million for 35 mandates.
- Payment of $45.7 million for mandates still to be identified for payment in the budget year.
- Deferment of payment for the Peace Officers Procedural Bill of Rights Mandate, mandate estimated to cost $35 million in the budget year.
- An appropriation of $50 million for mental health services to special education students (the AB 3632 mandate) with the express intent that mandate be converted to a categorical program.
- An appropriation of $98.1 million for the first year of a 15-year repayment cycle for past due state mandate claims.

Twenty-eight mandates are recommended for suspension in the budget year.

DISCUSSION ISSUES

1. Size of Mandate Backlog Uncertain (LAO Issue)

Proposition 1A authorizes the state to pay, over an unspecified term of years, unpaid noneducation mandate claims incurred prior to 2004-05. (Subsequent statute specified the term of this repayment plan to be 15 years.) The Governor's budget includes $98.1 million for the state's payment in 2006-07 towards the backlog. At the time this analysis was prepared, the backlog of noneducation mandates dating from before 2004-05 totaled $1.1 billion. The State Controller's Office, however, still was tallying late mandate claims and completing mandate audits. Both these actions could affect the state's costs to pay the backlog. Accordingly, we withhold recommendation on this item, pending updated information from the State Controller's Office (SCO).

Staff Recommendation: Request the SCO report to the Subcommittee on the latest estimated size of the backlog and the basis for that estimate.

2. Cost for Mandates in the Budget Year (LAO Issue)

The administration proposes to fund, in the budget year all noneducation mandates that are operative in the current year, with two exceptions. Specifically, the administration proposes to:

- Change the mental health mandates known as the AB 3632 mandates into a categorical program.
- Defer, to an unspecified future date, reimbursement for the Peace Officer Procedural Bill of Rights (POBOR) mandate.

Based on prior-year claims, we estimate that the cost to reimburse local agencies for the mandates the administration proposes to fund in the budget will total about $100 million, over double the amount proposed in the budget. About $70 million is attributable to four mandates, each costing in excess of $15 million: Absentee Ballots, Animal Adoption, Child Abduction and Recovery, and Sexually Violent Predators.

To avoid a deficiency in the budget year, we recommend that the Legislature increase this item by $54 million-or reduce state costs by suspending or repealing some mandates or transform them into lower-cost categorical programs.

Staff Recommendation: HOLD the issue open and for reconsideration by the Subcommittee when better cost estimates are available.

3. New Mandates Cost (LAO Issue)

Proposition 1A requires that the annual state budget include funding for the prior-year costs of new mandates (that is, those mandates recently approved by the commission). The administration has budgeted $45.7 million for these prior-year costs. At the time this analysis was prepared, the commission had adopted a statewide cost estimate for only one new noneducation mandate, totaling $142,000. (We review this mandate later in this write-up.)

We note, however, that additional noneducation mandates are working their way through the commission process and the commission might approve their cost estimates late this spring. Accordingly, we withhold recommendation on this item, pending an update from the commission as to when these cost estimates for new mandates may be adopted.

Our review also indicates that it would be advisable for the Legislature to enact legislation clarifying the state's procedures for including funds for new mandates in the annual state budget. Absent such legislation, Proposition 1A could be interpreted as requiring the state to include funds for a mandate approved on the very last day of the fiscal year. To give the Legislature and administration a reasonable amount of time to adjust the annual budget bill to include funding for new mandates, we recommend the Legislature specify in statute that funds to pay the statewide cost estimate of a new mandate adopted after March 31 would be included in the budget for the *subsequent* fiscal year.

> *Government Code § 17561.*
> *(c) (1) Except as specified in (2), for purposes of determining the state's payment obligation under Article XIII B, Section 6 (b) 1, a mandate "determined in a preceding fiscal year to be payable by the state" shall include all mandates for which the commission adopted a statewide cost estimate pursuant to Section 17600 of the Government Code during a previous fiscal year or that were identified as mandates by a predecessor agency to the*

> *commission, unless the mandate has been repealed or otherwise eliminated.*
> *(2) If the commission adopts a statewide cost estimate for a mandate during the months of April, May, or June, the state's payment obligation under Article XIII B, Section 6 (b) shall commence one year later than specified under (1) above.*

Staff Comment: Savings may well be realized in this budget item, based on lower than expected new mandate costs. The Subcommittee should defer approval of this budget issue until a later date when the new mandate costs are better understood.

The proposed trailer bill language should preclude having to defer the Subcommittee's funding level decision for new mandates past April 1 in subsequent years.

Staff Recommendation: ADOPT the proposed trailer bill language identified above**.**

VOTE:

4. Current-Year Mandate Deficiency (LAO Issue)

Proposition 1A generally requires that the state pay any current-year mandate deficiency, or suspend or repeal the mandate for the coming fiscal year. Actions to suspend or repeal a mandate, however, do not eliminate the state's constitutional obligation to pay the mandate deficiency sometime in the future.

Based on claims submitted to date, we estimate that the current-year budget will not have sufficient resources to pay all claims. We estimate that the size of this current-year deficiency to be about $140 million. The budget does not identify any funding for this purpose. We recommend the Legislature recognize this anticipated current-year deficiency of $140 million or increase Item 8885-295-0001(1) by $140 million to provide funding to pay this deficiency in the *2006-07 Budget Bill*.

Staff Comment: The Legislature has not received a deficiency request or other formal notification of increased current year mandate costs. Staff will evaluate that information carefully before proposing a current year or budget year augmentation. However, in accordance with Proposition 1A, current year mandate costs cannot be deferred.

Staff Recommendation: HOLD OPEN and request DOF report on insufficient appropriations for current year mandate costs and considerations for paying additional expenses.

5. Provide More Information About Mandates in Budget (LAO Issue)

In prior years, the Governor's budget document and the budget bill as introduced provided significant information regarding the administration's mandate proposals. For each mandate, the Governor's budget specified the: (1) administration's proposal, (2) current- and prior-year funding levels, and (3) department to which the mandate was assigned for policy oversight. The budget bill, in turn, listed each mandate's appropriation and specified if the mandate was proposed for suspension in the upcoming fiscal year. Each mandate was scheduled under the budget item for its assigned state department, a practice intended to promote oversight by state agencies and budget subcommittees with expertise regarding the mandate's subject matter.

The 2005-06 Governor's Budget and budget bill followed the customary practice regarding mandate information. Late in the spring of 2005, however, the administration proposed a change to reduce the administrative complexity of preparing the budget act. Specifically, the 2005-06 Budget Act of consolidated most mandate appropriations (except K-14 education and two mental health mandates) under the commission's budget item. While each mandate was listed by name in the budget act, specific funding levels were not identified for each mandate.

The 2006-07 Governor's Budget and 2006-07 Budget Bill provide less information than previous budget documents and treat K-12, community college, and non-education mandates inconsistently. The Governor's budget, for example, provides no mandate-specific information regarding noneducation mandates and little information regarding community college mandates. As a result, the Legislature cannot easily determine from the Governor's budget whether the administration proposes to fund or suspend, say, the Animal Adoption or community college collective bargaining mandates. If the Legislature looked for this information in the budget bill, it could determine that the administration proposes to fund the Animal Adoption mandate (at some unspecified amount), but still may be uncertain about the administration's proposal for community college collective bargaining. For K-12 mandates, the Governor's budget provides mandate specific data (including costs) regarding all K-12 mandates. The budget bill, however, provides no information regarding funded K-12 mandates.

Every year, the Legislature makes decisions whether to suspend, repeal, fund, or defer specific mandates. Each action has different implications for the state's budget and local agency program obligations. The administration's changes to the state's budget documents make it exceedingly difficult for the Legislature or local agencies to understand the administration's proposals or track the Legislature's decisions regarding mandates over time.

We recommend that the Department of Finance submit a report to legislative budget committees and the Joint Legislative Budget Committee before budget hearings on its plan to provide the following information in all future Governor's budgets and budget bills: (1) each mandate's name, (2) the amount proposed for each mandate, and (3) the name of each mandate proposed for a one-year suspension or repeal. We further recommend that the Governor's budget include information regarding prior- and current-year funding levels of each mandate.

Staff Comment:
During staff discussions it was determined that a major obstacle to accurate reporting of past year mandate costs in the Governor's Budget (which would also allow better current year and budget year estimates) is the final claiming date for reimbursable costs. Government Code Section 17560 generally proscribes that a local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.

For example, the final date to file claim costs for the 2004-05 fiscal year is January 15, 2006. This date precludes past year actual amounts from being included in the Governor's Budget, released on January 10.

In order to provide more accurate and timelier cost information to the Legislature, the Subcommittee should consider moving the reporting date to three month's earlier. An October 15 deadline should allow enough time for the SCO's final auditing of claims and DOF to include actual past year numbers and more accurate current year and budget year estimates in the Governor's Budget.

Staff Recommendation:

1. Request DOF respond to:
   a. The LAO recommendation that names of all mandates to be funded, repealed, suspended, or deferred be specified in the Governor's Budget.
   b. If the final claiming date were revised to October 15, the detriments or benefits to reporting, by mandate, past year mandate expenditures, as well as current and budget year estimates in the Governor's Budget, and,
   c. If the final claiming date were revised to October 15, the impact of including budget year estimates by mandate in the budget bill.

2. Request the LAO and other interested parties report on the practical and policy implications of shifting the final mandate claiming date to October 15.

6. Workers' Compensation Cancer Presumption (LAO Issue)

Typically, in California workers' compensation law, an employee must prove by a preponderance of the evidence that a compensable injury was employment-related. Local governments long have been responsible for providing workers' compensation benefits to their employees. Since 1982, the Legislature has passed several laws that have significantly eased the burden of certain firefighters and peace officers in proving that cancer was caused by their public employment. These changes recognize that the services performed by state and local firefighters and peace officers sometimes result in exposure to carcinogens.

Since the time that these mandate decisions were reached, the legal landscape regarding mandates has changed significantly. In 1998, for example, in *City of Richmond v. Commission on State Mandates*, an appellate court found that requiring local governments to provide death benefits to local safety officers under both state retirement and workers' compensation systems did not constitute a "higher level of service to the public" under the constitutional definition of a mandate. In 2004, the commission rejected a claim involving statutes passed in 1999 and 2000 that amended prior workers' compensation law concerning cancer in firefighters and peace officers. These more recent decisions seem to suggest that changing the burden of proof in workers' compensation cases may not be the type of cost covered by the State Constitution.

Consequently, we recommend that mandate decisions be reconsidered in light of more recent judicial and commission precedent. We note that any change in the commission's mandate rulings would ***not*** affect firefighters' and peace officers' rights to workers' compensation benefits in any way.

Even if the commission does not change its earlier determinations that these statutes constitute reimbursable mandates, we believe that the recent changes of the workers' compensation laws—which have contributed to significant reductions of premiums and self-insurance costs since 2003—warrant a review of the parameters and guidelines for local reimbursement of these workers' compensation costs. Trailer bill language would implement our recommendation.

Staff Comment: The Commission on State Mandates and staff have reviewed the LAO's proposed trailer bill language and recommend the following language (containing minor technical adjustments to the LAO language):

> *(a) The Commission on State Mandates shall reconsider the Statements of Decision and parameters and guidelines for the following programs:*
> *(1) Cancer Presumption – Peace Officers (Test Claim Number CSM-4416); and*
> *(2) Firefighter's Cancer Presumption (Test Claim Number CSM-4081).*
> *(b) The Commission shall complete these reconsiderations no later than six (6) months after a final decision is issued by the courts in the case of CSAC Excess Insurance Authority and City of Newport Beach v. Commission on State Mandates, et al., Los Angeles County Superior Court Case No. BS092146 (Consolidated with Case No. BS095456); Second District Court of Appeal Case No. B188169.*
> *(c) These reconsiderations shall be effective on July 1 following the date the Commission on State Mandates adopts the Statements of Decision pursuant to subdivision (a).*
> *(d) The Department of Industrial Relations, in consultation with the Department of Finance, shall participate in the commission's reconsideration by submitting relevant information to the commission.*

Staff Recommendation: ADOPT the proposed trailer bill language.

VOTE:

7. Reforming the Mandate Reimbursement Process

During the 2005-06 budget enactment process, Legislative staff, the Administration, LAO, and other parties jointly considered process reforms to restraining the cost of state-reimbursable mandates. These discussions included the identification of deficiencies in how the mandate reimbursement process works. For the purpose of correcting these deficiencies, the Budget Act included language directing DOF to prepare a report on alternatives to the current mandate reimbursement process (provided below).

> *The Department of Finance shall evaluate the current mandates reimbursement process and provide alternatives and suggest improvements to the process to the chairperson of the fiscal committees of each house of the Legislature and to the Chairperson of the Joint Legislative Budget Committee not later than March 1, 2006.*

In their report, DOF identified two key deficiencies with the reimbursement process. First, due to audit exception rates and time limits regarding conducting audits, substantial excess amounts are currently being paid to local governments. Second, there is no opportunity for the State to recoup interest on overpayments and a limited time frame for the state to recoup overpayments from counties.

To address these deficiencies the DOF offered the following five suggestions.

1. A collaborative effort between Legislative staff, LAO, DOF, Commission, SCO, and local agency representatives to address reforming the mandate determination and claim reimbursement process.

2. Develop processes and policies to decrease the time required to determine reimbursability of mandates.

3. Utilize more accurate cost estimates in order to reduce the length of the mandate determination process.

4. Reduce the enactment of legislation that creates mandates.

5. Improve the reimbursement claim process.

Additionally, DOF proposes in the Governor's Budget to augment their staffing to participate in a reform effort and develop the necessary expertise to implement reform. The proposed staff would be charged with identifying policy and procedural issues in the current mandate payment process, conducting analyses of the issues, and proposing solutions. This proposal will be considered by the Subcommittee under the DOF budget item.

The Commission on State Mandates recently commissioned a study to assess the feasibility of using a collaborative process to develop recommendations for reform of the state mandate reimbursement process. The study, conducted by the Center for Collaborative Policy at California State University, Sacramento (CSUS), involved dozens of interviews with local agency, state government, and nongovernmental stakeholders. A draft has been released and the final report will be considered at a Commission on State Mandates meeting on March 29.

The draft report concludes that a collaborative process would be the best way to approach broad-scale mandate reforms and that, if it is to be productive, the Legislature must demonstrate its support for such an effort from the outset, with resources.

The CSUS study suggested several goals for the collaborative effort, including (1) the process should be significantly streamlined and the time for determining test claims and processing reimbursement claims significantly reduced, (2) the existing process should be revised to reduce the time required to process existing test claims, and should result in the payment of the state's existing mandate liability as soon as feasible, (3) better and timelier information should be made available to decision makers about the potential costs of mandates before the mandates are enacted, and (4) the new system should better integrate the need of state auditors for documentation with the need of local governments to reduce the cost of documentation by relying on more use of their normal data collection systems.

Staff Recommendations:

1. Request DOF briefly explain the findings and recommendations in their report.

2. Request LAO and other interested parties identify other areas of study that DOF did not consider, which may further the discussion of mandate process improvements.

3. Direct the LAO, staff and DOF to generate recommendations for the Subcommittee to consider to:
   a. Utilize more accurate cost estimates;
   b. Reduce the enactment of legislation that creates mandates;
   c. Develop processes and policies to decrease the time required to determine reimbursability of mandates;

4. Request the Commission, DOF, and other interested parties report back to the Subcommittee on their recommendations for implementing any portions of the report by the Center for Collaborative Policy.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, March 23, 2006
9:30 a.m. or Upon Adjournment of Session
Room 112

Agenda Part B

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then calls for assistance from its neighbors.

Office of Emergency Services – Program Expenditures

	Expenditures *(dollars in thousands)*				
Program	**2004-05**	**2005-06**	**2006-07**	**$ Change**	**% Change**
Support of Office of Homeland Security	$0	$0	$170,217	$170,217	n/a
Mutual Aid Response	17,339	20,557	16,522	-4,005	-19.5%
Plans and Preparedness	143,772	363,548	35,693	-327,855	-90.2%
Disaster Assistance	591,614	635,609	616,463	-19,146	-3.0%
Criminal Justice Projects	189,763	242,421	198,329	-44,092	-18.2%
CA Anti-Terrorism Information Center	6,700	6,700	6,811	111	1.7%
Administration and Executive	6,823	7,140	7,259	119	1.7%
Distributed Administration and Executive	-5,928	-6,234	-6,338	104	1.7%
Support of Other State Agencies			11,000	11,000	n/a
Office of Homeland Security	1,174	33,327	0	-33,327	-100.0%
Totals, Programs	**$951,257**	**$1,303,068**	**$1,055,95**	**-$247,112**	**-19.0%**
Total Authorized Positions	**431.7**	**505.9**	**497.1**	**-8.8**	**-1.7%**

Budget Request. The budget proposes total expenditures of $1.1 billion ($124.6 million General Fund, $897.7 million federal funds, $33.6 million special funds and reimbursements), a decrease of $247.1 million, or 19 percent, from the estimated current-year expenditures. The major reasons for the reduction include: creation of a separate budget item for the Office of Homeland Security, effective January 1, 2007 ($180.8 million); an adjustment to reflect updated disaster assistance payments ($17.4 million); and a reduction in federal criminal justice grants ($16.9 million). The majority of funding for OES is local assistance ($961.4 million).

Proposed Vote-Only Issues

Issue Title	Positions	Dollars
A. Tsunami Program Manager Position. Requests authority to add one position to provide expert technical assistance to state agencies participating in the National Hazard Mitigation Program, manage contracts for the development of tsunami inundation projections, and provide technical assistance and support for response plan development and training to coastal and delta communities vulnerable to tsunami inundation. The costs for the position can be absorbed using existing federal fund authority.	1.0	$0
B. Justice Assistance Block Grant Adjustment. Requests technical adjustments necessary to reflect the reduction in federal funds for criminal justice programs for the budget year. This adjustment would reduce the Federal Trust Fund authority to zero for Byrne (-$52.1 million) and Local Law Enforcement Block Grants (-$882,000) and would replace these grants with funding for the new Justice Assistance Block Grant ($36.1 million), resulting in a reduction of $16.9 million. (Federal Funds)		-$16,874,000
C. Reimbursement Authority Reduction. Requests a technical adjustment to align budgeted reimbursement authority with anticipated levels of funding expected to be received. (Reimbursements).		-$1,005,000

Staff Recommendation. No issues have been raised by the LAO or staff on the vote-only issues. Staff recommends approval of these vote-only issues.

Action.

Discussion Issues

1. Accounting Problems with the Criminal Justice Grant Program

Background. Beginning January 1, 2004, the OES's Law Enforcement and Victim Services (LEVS) division has been administering grants formerly managed by the Office of Criminal Justice Planning (OCJP). Due to weaknesses in OCJP's accounting records, OES encountered a number of serious problems, including the inability to match expenditures with grant amounts and violations of federal grant management requirements. As a result, the federal government froze its grant monies for a time (several federal grants remain frozen). In addition, the Department of Finance's (DOF's) Office of State Audits and Evaluations completed an audit in February 2005 which attempted to reconstruct OCJP's accounting records. These problems have caused ongoing problems in OES' accounting efforts, particularly for the LEVS grants. The OES' problems have been exacerbated by vacancies in its budget and accounting units. For instance, the department reports that, for a short time, the budget unit was 100 percent vacant.

2004-05 Financial Statement Not Yet Closed. OES has been unable to close out its 2004-05 financial statements. The Governor's budget displays several appropriations that may have been over-obligated in 2004-05. Since it has been unable to finalize its financial statements, the exact amounts of any such over-obligations are still unknown.

LAO Withholds Recommendation. The LAO notes that to date, the magnitude of any appropriation over-obligations is still unknown. The LAO withholds recommendation on the LEVS budget pending review of the action plan.

Staff Comments. Based on the results of the Reconstruction Project, OES may require adjustments to its local assistance budget authority to be able to continue making payments to Criminal Justice grant recipients. Potential adjustments could span three fiscal years, 2004-05, 2005-06, and 2006-07. The OES has released an updated action plan which estimates that it will be submitting information to the Department of Finance (DOF) by the end of March 2006. OES originally estimated that the Reconstruction Project would be finished by summer 2005.

Federal Government Froze Funding for Several Grants. As a result of inadequate accounting reports from OCJP at the time of the transfer of the grants to OES, federal agencies froze the federal funding for certain grants in October 2003. In May 2004, the federal agencies agreed to provide interim funding on the condition that the accounting records were accurately reconstructed. The grantees of these federal and state funds include local governments, law enforcement agencies, and community-based organizations. The OES reports that funds from the following grants remain frozen:

EDWARD BYRNE MEMORIAL FUND: There are funds from FFY 2002 and FFY 2003 that are on hold pending the reconstruction and reconciliation of the records so that the old awards can be closed out and the balances re-awarded to OES. The balance for ‘02 is estimated at $3.5 million. For ‘03 the balance is estimated at $13.7 million.

RESIDENTIAL SUBSTANCE ABUSE TREATMENT: There are funds from FFY 2002 and FFY 2003 currently on hold pending the reconstruction and reconciliation of the records so that the old awards can be closed out and the balances re-awarded to OES. The balance for ‘02 is estimated at $2 million. For ‘03 the balance is estimated at $3.6 million.

VIOLENCE AGAINST WOMEN ACT SERVICES-TRAINING-OFFICERS-PROSECUTORS PROGRAM: There are funds from FFY 2002 currently on hold pending the reconstruction and reconciliation of the records so that the old award can be closed out and the balance re-awarded to OES. Last year: The balance for VAWA ‘02 estimate is projected to be at $1 million.

Staff Recommendation. The Table on the following page highlights the proposed LEVS spending. Staff recommends holding open the LEVS budget, pending the outcome of the OES accounting reconstruction. The Subcommittee may wish to ask OES about the timeline for its Reconstruction Project and if there are any preliminary findings. With respect to the frozen federal funds, the Subcommittee may wish to get an update on the amounts outstanding and information on whether any of these funds are at risk of being returned to the federal government.

Action.

The Table below highlights the proposed LEVS local assistance grants for the budget year.

Law Enforcement and Victim Services (LEVS) Grants

OES Summary of Program Budget Amounts by Fund – Local Assistance (Dollars in Thousands)					**2006-7**
		Fund Source			
Program	**Total**	**General Fund**	**Federal Fund**	**Special Fund**	**Reimb.**
Victim Services					
Victim Witness Assistance	$11,871			$11,871	
Victim's Legal Resource Center	41	$41			
Domestic Violence	11,481	2,730	$8,751		
Family Violence Prevention	50	50			
Violence Against Women Act (VAWA)	12,990		12,990		
Rural Domestic Violence/Child	571		571		
Mentoring Children	260		260		
Rape Crisis	3,720	50		3,670	
Rape Prevention (DHS)	5,571				$5,571
Homeless Youth	396	396			
Youth Emergency Telephone Referral	127	127			
Child Sex Abuse & Exploitation	978			978	
Child Sex Abuse Prevention & Training	302	302			
Victims of Crime Act (VOCA)	40,698		40,698		
Subtotals- Victims Services	*$89,056*	*$3,696*	*$63,270*	*$16,519*	*$5,571*
Public Safety					
Sexual Assault Felony Enforcement	5,700	5,700			
War on Methamphetamine	9,500	9,500			
Vertical Prosecution Block Grants	8,176	8,176			
Project Safe Neighborhoods	2,510		2,510		
Evidentiary Medical Training	648	648			
Forensic Sciences Improvement Act	358		$358		
Children's Justice Act (CJA)	1,775		1,775		
Public Prosecutors/Defenders Training	800	8		$792	
Residential Substance Abuse Treatment	9,135		9,135		
Peace Officer Protective Equipment	1,275		1,275		
Justice Assistance Grant	34,270		34,270		
High Tech Theft	13,518			13,518	
Gang Violence Suppression	1,785	1,785			
CAL GANG	300	300			
Multi-Agency Gang Enforcement	93	93			
Rural Crime Prevention	3,643	3,643			
OHS CA Mass Transportation Security	2,500			2,500	
Subtotals – Public Safety	*$95,986*	*$29,853*	*$49,323*	*$16,810*	*$5,571*
Totals, Local Assistance	**$185,042**	**$33,549**	**$112,593**	**$33,329**	**$5,571**

2. Sexual Assault Felony Enforcement Grant Program

Budget Request. The budget proposes $6 million in General Fund support for Sexual Assault Felony Enforcement (SAFE) teams. This includes $5.7 million in local assistance, with the remainder used to support new OES staff to administer the program. Chapter 1090, Statutes of 2002 (AB 1858, Hollingsworth), authorizes these teams as partnerships between local, state, and federal law enforcement to: (1) proactively monitor habitual sexual offenders and (2) collect data to determine if proactive law enforcement is effective in reducing violent sexual assault offenses. No state appropriation accompanied the bill. This proposal would provide General Fund support to enhance existing local and regional teams and to establish programs in counties where they do not already exist. Funding would be allocated to counties with 200 or more registered sex offenders (about 40 counties) based on each county's proportionate share of the offending population.

Concerns Raised by the LAO. The LAO indicates that the administration was unable to provide even the most basic information regarding the proposed grants. The LAO reports that the administration was unable to provide information about how many such programs currently exist and how they are currently funded. In addition, Chapter 1090 specifically requires SAFE teams to collect data regarding their effectiveness. Yet, according to the LAO, the administration could not provide any such data or analysis documenting the teams' level of success to date. The LAO notes that the proposal also fails to demonstrate why state funding is necessary if the teams have been operating for the past several years without any state assistance. In addition, the LAO notes that the OES has been struggling to meet basic budgeting and accounting standards for the criminal justice programs transferred from the former Office of Criminal Justice Planning. The LAO believes that the financial problems will require ongoing attention by the department's executive management for the next several years and that the department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs.

Analyst's Recommendation. The LAO recommends rejection of this proposal.

Staff Recommendation. Staff is reviewing additional information provided by the department. Staff recommends holding this issue open at this time.

Action.

3. Assistance for Victims of Crimes Committed by Parolees.

Budget Request. The OES currently administers the Victim-Witness Assistance Program, which funds every county to operate comprehensive victim-witness assistance centers that provide support services to victims and witnesses during criminal proceedings. Victim advocates guide victims through the court process, help victims receive restitution, provide crisis intervention, and make referrals to counseling and community services. The administration proposes to establish a $1 million grant program to assist counties in extending services to victims and witnesses that choose to participate in parole revocation hearings. The administration's stated objective is to increase victim-witness participation in such hearings, with the goal of sending more parolees back to state prison for crimes committed while on parole. Funding for this program would come from the Victim-Witness Fund, which is funded by criminal fines.

Concerns Raised by the Analyst. The LAO indicates that the administration could not identify the current rate at which victims and witnesses attend parole revocation hearings or the extent to which the local assistance centers already provide these services. The LAO also notes that the proposal does not identify the expected improvement in participation, how funding would be distributed, or the broader impact such participation is expected to have on criminal recidivism. The LEVS division is struggling to meet basic budgeting and accounting standards. The department asserts that adding two new grant programs would not further impair its progress in resolving these problems. Realistically, however, the financial problems will require ongoing attention by the department's executive management for the next several years. The department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs. In addition, the LAO notes that the OES has been struggling to meet basic budgeting and accounting standards for the criminal justice programs transferred from the former Office of Criminal Justice Planning. The LAO believes that the financial problems will require ongoing attention by the department's executive management for the next several years and that the department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs.

Analyst's Recommendation. The LAO recommends rejection of this funding.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejection of this funding.

Action

4. Drug Endangered Children (DEC) Program

Augmentation Request. The California Drug Endangered Children (DEC) Alliance is a multi-jurisdictional effort to rescue and defend children who are endangered by their parent's drug activities - primarily methamphetamine. Throughout California, thousands of children are exposed to methamphetamine production, drug trafficking, drug use, and the squalor of homes where parents are attempting to parent through their addictions. A significant number of children under the age of 13 coming from these environments will actually test positive for methamphetamine when taken into protective custody. In most instances, unless there is a multi-jurisdictional effort to intervene on behalf of these children, their needs go unmet. They are often simply left at the crime scene in the care and custody of a neighbor or friend of an arrested parent. The DEC Alliance is in the final four months of a three-year grant awarded by the Children's Justice Act (CJA) and administered by the Governor's Office of Emergency Services (OES) to bring training to counties throughout the state to address this extraordinary problem.

For the past three years, with CJA funding, the Alliance has employed a coordinator, developed a training curriculum and provided conferences throughout California. These trainings are directed to a multi-jurisdictional audience of law enforcement, child welfare services, prosecutors, and public health professionals and promote the use of DEC response teams to address the needs of children found in narcotics crime scenes. The DEC Alliance indicates that because of these efforts, many counties throughout the state have developed DEC protocols and the welfare of thousands of children has been addressed. The DEC Alliance is also developing a website, drafting written training materials, promoting a medical protocol, and supporting data collection for our project.

The DEC Alliance is seeking approximately $150,000 per year with a multi-year commitment of 3 to 5 years. This funding would allow them to recruit and employ a qualified State Coordinator, provide technical support to the counties, and continue sponsoring training conferences throughout California. The DEC Alliance indicates that many areas of the State have not yet received training and many counties need continued training and technical support.

Staff Recommendation. Staff recommends holding this item open at this time. Staff will work with the department and the LAO to identify potential funding sources for this program.

Action.

5. State Warning Center Increase

Budget Request. The budget proposes to increase staff at the State Warning Center (SWC), which serves as the central information point during state emergencies. Specifically, the budget proposes increased funding of $617,000 (General Fund) and nine new positions in order to maintain at least three staff at the center twenty-four hours a day.

According to the LAO, the department already has a total of 51 authorized positions in the two classifications it is requesting. Yet, according to data from the State Controller's Office, 33 of the existing 51 positions are currently unfilled – a vacancy rate of 65 percent.

Staff Comments. OES indicates that due to an error the majority of positions that showed up as vacant in the Controller's Office data were not vacant. The actual number of vacant positions in the two classifications is 2, and neither of those positions is at the SWC.

Staff Recommendation. Staff recommends approval as budgeted.

Action

6. Adjustment to Reflect Updated Disaster Assistance Payment Projections

Budget Request. The budget proposes to reduce OES's General Fund disaster assistance authority by $19.6 million to reflect the latest local assistance payment projections and to remove authority for a one-time state operations augmentation related to the 2005 Southern California Winter Storms.

Staff Comments. The OES indicates that these estimates have been revised based on projected payments for the flooding that occurred in early January 2006. DOF anticipates that a revised proposal will be submitted through the Spring Finance Letter process.

Staff Recommendation. Staff recommends holding this issue open pending a revised proposal.

Action

7. Disasters and State Emergencies -- Informational Issue

On February 24, 2006, the Governor declared a state of emergency for the state's levee system due to the imminent threat of catastrophic levee failure. The emergency proclamation cites a report by the U.S. Army Corps of Engineers in cooperation with the California Department of Water Resources (DWR) from December 2005 which identified 24 critical erosion sites on project levees in the Sacramento and San Joaquin River Flood Control systems. The declaration allows the Governor to use monies from the state's budget reserve for levee repair. On March 7, 2006, the Governor signed Executive Order S-01-06 instructing the DWR to repair the 24 identified critical levee erosion sites.

Comments. The Subcommittee may wish to ask OES to summarize the traditional role that OES plays in declaring a state emergency, to describe its role in the Governor's recent declaration of emergency regarding the levees, and to describe its role moving forward in this emergency. The Subcommittee may also wish updates on efforts to get the federal government to declare an emergency, and estimates for the costs to repair the identified critical erosion sites.

Informational Issue.

8. Radio Interoperability – Informational Issue

The Public Safety Radio Strategic Planning Committee (PSRSPC) was established by legislation in 2002 (AB 2018) as a means to develop an integrated network of systems and interoperability for state agency first responders. The agencies involved with PSRSPC represent state-level core agencies that routinely employ public safety communications to carry out their missions in state government. They are also regularly involved with planning, using, acquiring, exercising, and evaluating public safety communications in order to perform their missions and serve the residents of California. Between July 2005 and the present, the PSRSPC, chaired by OES, has begun to address the challenges and issues facing California state agencies and partner organizations in pursuit of communications equipment modernization and interoperability.

Pursuant to statute, in January 2006, the PSRSPC reported to the Legislature with its plan for California State public safety communications integration, modernization, and interoperability. It is both a status report of PSRSPC activities as mandated by the Public Safety Communications Act of 2002, as well as a statewide strategic plan for wireless communication modernization and interoperability. The PSRSPC membership believes this plan captures needed history and context, sets a realistic vision for the future, and recommends real-world steps that can be implemented immediately. This plan provides a "roadmap" for addressing the complex needs of California's public safety communications infrastructure.

Informational Issue.

0685 Office of Homeland Security

The Office of Homeland Security (OHS) develops, maintains, and implements a statewide comprehensive homeland security strategy to prevent terrorist attacks within the state, reduce the state's vulnerability to terrorism, minimize damage from attacks that may occur, and facilitate the recovery effort. The OHS also serves as the state administering agency for federal homeland security grants and the state's primary liaison with the U.S. Department of Homeland Security.

Budget Request. Currently, the OHS is funded as part of the Office of Emergency Services (OES). The budget proposal reflects technical adjustments necessary for the OHS to be budgeted as an independent entity, effective January 1, 2007, if legislation is passed that establishes the Office in statute. However, the Administration has not proposed legislation to create OHS as an independent entity in a budget trailer bill.

Total funding for the OHS in the budget year is $365 million ($359.7 million federal funds and $5.2 million Antiterrorism funds). Of the total proposed funding, $330.5 million is for homeland security grants to local jurisdictions, $22 million is for homeland security grants to other state agencies, and $12.4 million is for support of the OHS. In the budget display, half of the funding appears in the OES budget item and half in the newly created OHS budget item. The Table below displays the combined funding from both budget items to show the total proposed budget.

Office of Homeland Security

	***Expenditures** (dollars in thousands)*				
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**% Change**
Support of Office of Homeland Security	$2,987	$11,227	$12,436	$1,209	10.8%
Support of Other State Agencies	n/a	n/a	22,000	22,000	n/a
Local Assistance	203,000	328,000	330,500	2,500	0.8%
Totals, Programs	**$205,987**	**$339,227**	**$364,936**	**$25,709**	**7.6%**
Total Authorized Positions	**22**	**53**	**67**	**14**	**26.4%**

Staff Comments. The support of the Office of Homeland Security program includes $4.5 million for an interagency agreement with the Military Department to provide assistance with a statewide training and exercise program. The budget for OHS grew significantly in the current year as a result of expansions in the staff approved last year for the OHS.

The U.S. Department of Homeland Security (DHS) indicates that approximately $1.8 billion will be available nationally for homeland security grants in federal fiscal year 2006, which began in October 2005. Because the state is currently in the process of applying for these grants, the funding is not included in the January budget. In previous years, the Department of Finance has submitted a Finance Letter in the spring once the grant awards have been made by the DHS. OHS indicates that it does not anticipate that the grant awards will be made by the federal government to include them in the budget by the time of the May Revision.

1. Homeland Security Grants – Informational Issue

Since 2000, the state has received over $1 billion in federal homeland security funds that are administered by the OHS and by the Department of Health Services. The Table below highlights the funds administered by OHS since 2000.

OHS Federal Homeland Security Grants
Federal Fiscal Years 2000-2005

Federal Fiscal Year	Local Governments	State Agencies	Total
2000 & 2001	$12,224,750	$2,608,250	$14,833,000
2002	19,965,000	4,866,000	24,831,000
2003	186,960,190	39,521,300	226,481,490
2004	282,038,527	35,091,400	317,129,927
2005*	295,808,216	30,661,056	314,922,077
Totals	**$796,996,683**	**$112,748,006**	**$909,744,689**

*Totals for 2005 include Urban Area Security Initiative Transit Grants and the Buffer Zone Program.

Grant Management. Generally, the federal government has capped the amount allowable to the states for management and administration at 3 percent of the total grant. The following amounts were retained by OHS for management and administration (M&A):

- For funds received in federal fiscal year (FFY) 2000, 2001, and 2002, no funding for M&A was allowable.
- For FFY 2003, $1,753,407 was retained.
- For FFY 2004, $2,500,000 was retained.
- For FFY 2005, $7,879,106 was retained (this represents 3 percent of the grants and was the maximum allowable under the grants).

For FFY 2006, OHS indicates that the states will be able to retain up to 5 percent for M&A. OHS expects to retain the maximum amount for M&A.

Specific Reporting and Audit Requirements. The federal government requires recipients to submit both financial and program reports. These reports describe the status of funds, the status of the project, a comparison of actual accomplishments to the objectives, and the reason(s) goals have not been met. Future awards, fund draw-downs, and modification approvals may be withheld if financial and program reports are delinquent. In addition, grantees and sub-recipients are responsible for obtaining independent audits and are responsible for follow-up and corrective action on all audit findings.

Grant Management Issues Raised Last Year. Last year, the LAO reported that its review of homeland security programs found that neither OHS nor DHS was conducting audits of local government grant recipients to ensure that the funds were being used consistent with requirements and approved proposals. In its request for additional grant management positions last year, the OHS indicated that: (1) responses to sub-grantee award adjustment requests were delayed up to 45 days; (2) five of the last seven federally required performance reports had been submitted as much as 60 days late; (3) sub-grantee requests for technical assistance were taking on average 23 days to receive a response; and (4) sub-grantee monitoring (verification of the sub-grantee compliance with grant requirements) had not been performed at all due to lack of staff. The OHS indicates that it has corrected these problems due to the additional staff that was been provided through the budget process.

State Agency Grants. Generally, the Homeland Security Grant funding that goes to locals is allocated through a formula that is specially designated for a local region. However, the OHS does exercise some discretion over the grants made available to other state agencies. The OHS reports that in 2004 it received funding requests from state agencies totaling $289.4 million and approved funding of $32.6 million (11.2 percent of the total requested). For 2005, requests totaled $202.5 million and approved funding totaled $27.7 million, or 13.7 percent of the total requested).

OHS indicates that funding determinations have been guided by the goals and objectives of the state's overall homeland security strategy. In the past, the funding priorities have been equipping first responders, enhancing information sharing, protecting critical infrastructure, developing training and awareness courses, increasing public awareness and preparedness planning efforts.

Changes for the FFY 2006 Grants. The OHS indicates that for FFY 2006, each state and territory will receive base allocations from the State Homeland Security Program and the Law Enforcement Terrorism Prevention Program according to the USA PATRIOT Act formula. The remainder of funds will be allocated based on: (1) an analysis of risk at the state and urban area levels; and (2) the effectiveness of the state and urban areas grant proposals in reducing identified needs.

All Urban Area Security Initiative (UASI) funding will be allocated on risk and need calculated by the federal Department of Homeland Security. Previously, the federal government had funded the top 50 Urban Areas based on risk and need. For 2006, only the top 35 will be funded. As a consequence, Sacramento and San Diego have fallen off the list. These areas are eligible for continuation funding in FFY 2006, but would potentially not be eligible for future funding under this grant. In 1995, these areas were awarded $20 million from the UASI program. For FFY 2005, California's designated UASI regions were Anaheim, Santa Ana, Oakland, San Francisco, San Jose, Los Angeles, Long Beach, Sacramento, and San Diego.

Informational Issue

2. Homeland Security Grant Expenditures – Informational Issue

Last year, as part of its review, the LAO found that the state lacked a statewide strategic approach for homeland security funding and found that expenditure of the available federal funds has been slow and that monitoring and audits of local grants had not been performed.

The Table on the following page highlights the Homeland Security Grants that California has received and highlights when those funds expire and would have to be released back to the federal government. As can be seen in the Table, the grants from FFY 2002, 2003, and 2004 are all set to expire by the end of calendar year 2006. For these years, less than half of the funding has been expended to-date. The OHS indicates that extensions have already been approved for the FFY 2002 and 2003 funds and that no additional extensions will be provided.

OHS is working with the affected local agencies to help ensure that all eligible funds are expended. OHS has indicated that it is setting up a system such that unexpended funds can be disencumbered and reprogrammed to other sub-grantees in order to be expended prior to the expiration date.

Summary of Homeland Security Grant Expenditures as of February 2006 (Federal Fiscal Years 2002 through 2005)						
Grant	**Grant Award minus state Administration**	**Reimbursed**	**Percent**	**Balance**	**Percent**	**Grant Expiration Date**
FY02 State Domestic Preparedness Program	$24,831,179	$24,591,272	99%	$239,907	1%	7-31-06
FY03 State Homeland Security Grant Program Part I	45,023,000	35,676,847	79%	9,346,153	21%	9-30-06
FY03 State Homeland Security Grant Program Part II	119,256,000	87,472,534	73%	4,801,860	27%	10-31-06
FY03 Urban Areas Security Initiative Grant Part II	62,202,490	24,494,850	39%	37,707,640	61%	12-31-06
FY04 Homeland Security Grant Program	175,457,000	48,962,640	28%	126,494,360	72%	11-30-06
FY04 Urban Areas Security Initiative Grant	141,672,927	21,851,337	15%	119,821,590	85%	11-30-06
FY05 Homeland Security Grant Program	282,622,077	725,977	0%	281,896,100	100%	3-31-07
Total	**$851,064,673**	**$243,775,457**	**29%**	**$607,289,216**	**71%**	

3. Creation of the Office of Homeland Security as an Independent Entity

The Office of Homeland Security (OHS) lacks a statutory framework. Currently, OHS is included within OES for budgetary purposes.

Budget Request. The administration proposed the creation of OHS as a separate state entity. In anticipation of administration-sponsored legislation to implement this proposal, the budget creates a new budget item (0685) for OHS. The budget assumes an effective date of January 1, 2007 for this legislation. Consequently, the office's funding for 2006-07 is split evenly between OES's budget and the new budget item. The budget bill contains language that would revert the funding back to the OES budget if legislation does not create a separate entity.

The administration has proposed that OHS and OES be separate entities, both reporting directly to the Governor. Although OHS is currently budgeted within OES, the two entities largely have been operating independently of one another. The LAO notes that although homeland security and emergency services can be distinguished from one another in some respects, the activities tend to overlap. For instance, although OHS administers the federal homeland security grants, many grant activities are related to overall emergency planning and response (overseen by OES). Given the current structure, it is likely that federal grant funds allocated by OHS have been used for more narrow homeland security purposes than if OES allocated the grants. The OES would be more likely to integrate the federal funds with existing emergency preparedness activities.

In addition, as noted earlier, the state's emergency response system depends on solid working relationships among participants. Separating grant administration from day-to-day emergency response means that local governments have to forge relationships with two separate state entities.

LAO Recommendation. The LAO recommends rejecting the proposal for a separate budget item for OHS. The LAO believes that the OHS and OES have overlapping activities and need to work closely together and that the OHS should be established as a division within OES. The LAO believes that the Legislature should provide specific statutory authorization for OHS and delineate the office's duties and powers (within OES). Such an approach would make it clear that OES is in charge in case of disaster preparedness and response.

Staff Recommendation. The OHS has indicated that no legislation has been introduced to create OHS as an independent entity. Given the issues raised by the LAO, staff recommends rejecting the proposal to create a separate budget item in the budget bill for OHS. For clarity purposes, staff recommends that the funding for OHS be provided as a separate program within the OES budget, as has been proposed in the Governor's budget for the first half of the budget year.

Action

4. Science and Technology Unit

Budget Request. The budget proposes $465,000 in federal funds and five positions to establish a Science and Technology Unit within the OHS. The new unit would seek technology based solutions for homeland security related goals.

Staff Recommendation. No issues have been raised by the LAO or staff. Staff recommends approval as budgeted.

Action.

5. Administrative Unit Workload Increase

Budget Request. The budget proposes $444,000 ($244 federal funds and $100,000 antiterrorism funds) and 9 positions for additional administrative and grant management support for the OHS.

Concerns Raised by the LAO. The LAO notes that the 2005-06 budget provided OHS with a four-fold increase in staffing – bringing total authorized personnel from 13 to 53. The additional staff was intended to handle the office's growing duties, such as administering grants, reviewing dangers to infrastructure, developing the homeland security strategic plan, and related administrative duties. The LAO indicates that OHS still has 22 unfilled positions on its existing staff – an overall office vacancy rate of 42 percent.

Analyst's Recommendation. The LAO recommends rejecting the funding for these positions until the OHS fills its current positions.

Staff Comments. The requested positions include, a grants manager, a staff counsel, an administrative unit supervisor, a budget officer, accounting officer, personnel specialist, procurement/contract position, and an information systems analyst. In the current year, OHS received $355,000 to contract for administrative services related to fiscal services, information technology, and legal counsel. OHS indicates that it has contracted with the OES to provide these services.

The OHS indicates that it is seeking $100,000 from the Antiterrorism Fund because that funding would provide funding for the following specifically ineligible costs not allowed under the federal funds: (1) construction or renovation costs; (2) general purpose vehicles and associated costs (currently OHS has three vehicles on loan from the Department of Justice; and (3) professional license/certification renewal.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejecting funding for the new positions.

Action

6. Establish the California Mass Transportation Security Grant Program.
Budget Request. The budget proposes $5 million from the Antiterrorism Fund to fund a new program to assist local mass transit entities in improving the security infrastructure. The Antiterrorism Fund was created by Chapter 38, Statutes of 2002 (AB 1759, Wesson) following the terrorist attacks on September 11, 2001. The fund receives revenues from the California memorial license plates, which are estimated at $1.2 million annually. Money from the Antiterrorism Fund has not been appropriated in past years, and the estimated available balance is $5.4 million. The ongoing grant program would be $1 million annually. The proposal requires trailer bill language (attached) to authorize OHS to use the entire Antiterrorism Fund solely for antiterrorism purposes. Under current statute, the fund is allocated (upon appropriation by the Legislature) one half to the Office of Criminal Justice Planning (OCJP), solely for antiterrorism activities, and one half to other agencies for antiterrorism activities.

Analyst's Concerns. The LAO notes that in 2005-06, California received approximately $19 million in federal support for transit security and that a comparable level of federal funding is expected to be available to the state in 2006-07. Mass transit systems also are eligible recipients under many other federal homeland security grants. The LAO believes that the proposed program would only make marginal improvements, given the amount available and the identified needs. For example, the Bay Area Rapid Transit (BART) district estimates $250 million in necessary security improvements. Spread statewide, the proposed $5 million program would provide only minimal resources to address these demands. In some cases, however, additional funds would help provide some flexibility for activities that are ineligible for federal funding, like minor construction projects.

Analyst's Recommendation. The LAO recommends reducing funding by $2.5 million to allow for other departments' homeland security needs. The LAO notes that the Antiterrorism Fund is the state's only dedicated fund source for homeland security activities. The monies can be used to fund activities that are ineligible for federal funding. The LAO believes that using almost the entire fund balance for a single program is inconsistent with the original intent of the fund – to address multiple departments' homeland security requests.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends (1) reducing funding for the program by $2.5 million and (2) adopting trailer bill language that only substitutes reference in statute from the Office of Criminal Justice Planning to the Office of Emergency Services.

Action

Appendix
Proposed Trailer Bill Language

Issue #2
No RN yet.

Homeland Security – California Mass Transportation Security Grant

Section 5066 of the Vehicle Code is amended to read:

5066. (a) The department shall, in conjunction with the California Highway Patrol, design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of California memorial license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).

(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:

(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund. *Upon appropriation by the Legislature, the money in the fund shall be allocated by the Controller to the Office of Homeland Security to be used solely for antiterrorism activities.*

~~(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Criminal Justice Planning to be used solely for antiterrorism activities. The office may not use more than 5 percent of the funds appropriated to it for administrative purposes.~~

~~(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.~~

(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The department may utilize an amount of money, not to exceed fifty thousand dollars ($50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) "Antiterrorism activities" means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, ~~and~~ public health, *and mass transportation* agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, ~~and~~ public health, *and mass transportation* personnel, response training for existing and additional law enforcement, fire protection, ~~and~~ public health, *and mass transportation* personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, March 29, 2006
10:00 a.m.
Room 3191

Budget Overview Hearing On the

Department of Corrections & Rehabilitation

BACKGROUND INFORMATION

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

5225 Department of Corrections and Rehabilitation

2006-07 Budget Overview

Effective July 1, 2005, all the agencies that previously reported to the Youth and Adult Correctional Agency were consolidated into the Department of Corrections and Rehabilitation (CDCR) pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero).

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to improve public safety through evidence-based crime prevention and recidivism reduction strategies. The CDCR is organized into twelve programs: Corrections and Rehabilitation Administration; Corrections Standards Authority; Juvenile Operations; Juvenile Education, Vocations, and Offender Programs; Juvenile Parole Operations; Juvenile Health Care Services; Adult Operations; Adult Parole Operations; Board of Parole Hearings; Community Partnerships; Adult Education, Vocations, and Offender Programs; and Correctional Healthcare Services.

Budget Proposal. The budget proposes total expenditures of $8.1 billion ($7.8 billion General Fund and $241 million other funds) and 60,966 positions for the CDCR. This represents an increase of $364 million ($383 million General Fund), or about 4.7 percent, and 2,357 positions above the revised 2005-06 budget. Table 1, below, highlights the expenditures for the major programs within the CDCR for the current year and the budget year.

Table 1. CDC – Summary of Program Expenditures

Program	***Expenditures*** *(dollars in thousands)* 2005-06	2006-07	Change	**Percent Change**
Administration	$208,681	$243,649	$34,968	16.8%
Corrections Standard Authority	263,196	244,514	-18,682	-7.1%
Juvenile Operations	178,589	176,337	-2,252	-1.3%
Juvenile Education and Programs	138,523	179,404	40,881	29.5%
Juvenile Parole	40,468	38,734	-1,734	-4.3%
Juvenile Healthcare	56,135	62,119	5,984	10.7%
Adult Operations	4,713,759	4,868,653	154,894	3.3%
Adult Parole	717,983	693,504	-24,479	-3.4%
Board of Parole Hearings	85,416	89,493	4,077	4.8%
Community Partnerships	1,858	7,727	5,869	315.9%
Adult Education and Programs	236,608	271,376	34,768	14.7%
Adult Healthcare	1,052,898	1,182,755	129,857	12.3%
Total	**$7,694,114**	**$8,058,265**	**$364,151**	**4.7%**
Total Authorized Positions	**58,608.8**	**60,966.2**	**2,357.4**	**4.0%**

Table 2, below and continuing on the next page, highlights the major budget adjustments proposed by CDCR for the budget year. These proposals will be discussed in more depth by the Subcommittee at a later hearing.

Table 2. CDCR Major General Fund Budget Adjustments for 2006-07

(dollars in thousands)

	Issue	Positions	Dollars
1	**Basic Correctional Officer Academy Expansion.** Expands the number of cadets to be trained and establishes Northern California Women's Facility as a temporary offsite academy. In the current year, the CDCR has proposed $25.4 million and 88.7 positions to begin expansion of the academy.	211.4	$54,503
2	**Population Adjustments**. In the current year, the department has proposed increases of $64.5 million and 778 positions due to the increasing inmate and parole population.	1,340.3	131,916
3	**Adult Healthcare Services**. Proposes to augment the budget baseline for contract medical by $42.7 million, pharmaceuticals by $16.4 million, and medical guarding by $9.1 million due to reported ongoing budget shortfalls.		68,139
4	**Adult Local Assistance.** Proposes an increase to reimburse locals for housing and non-routine medical costs of parolees who are detained for parole violations. In the current year, CDCR has proposed an increase of $85.1 million.		11,853
5	**Inmate Dental Services.** Proposes funding and positions to implement the first phase of major changes in the Inmate Dental Services Plan in order to meet the stipulated agreement from the *Perez v. Hickman* class action lawsuit. Total ongoing costs after the first three years will be $42 million and 597 positions.	228.6	21,487
6	**Records Staffing and Automation.** Proposes $10 million to develop an appropriate classification and pay structure for Correctional Case Records Offices, $4.3 million to implement an electronic records management system for discharged offender records, and $225,000 to conduct a consultant-based statewide study of health records management and staffing needs for the Division of Correctional Healthcare Services.		14,495
7	**Electromechanical Doors**. Proposes $3 million in 2006-07 and $7.3 million in 2007-08 to continue the electromechanical security door operating and locking system repair project that was initially approved in 2001-02.		3,000
8	**Price Increase**. State agencies were provided a 3.1 percent price increase.		55,969
9	**Recidivism Reduction Strategies.** Proposes funding to expand various inmate and parole programs designed to reduce re-offending and recommitment to state prison. The proposal (including $30 million approved in the 2005 Budget Act) includes $21.1 million for enhancements to inmate education and vocational education programs; $7.7 million for community partnerships; $7.8 million for parole services expansions, $9.9 million for institution based rehabilitative and treatment programs; and $6.2 million to research the effectiveness of correctional programs. The 2005 Budget Act included $7.5 million for the current year, growing to $30 million in 2006-07.	143.1	22,761

	Table 2 continued. CDCR Major General Fund Budget Adjustments for 2006-07 ***(dollars in thousands)***		
	Issue	**Positions**	**Dollars**
10	**GPS Monitoring Expansion.** Proposes funding to add 500 Global Positioning System (GPS) devices to track and monitor high risk parolees. This is part of a four-year plan to add 2,000 GPS devices, bringing the total number of GPS units to 2,500 by 2009-10.		$5,134
11	**Special Repair Projects and Assessments.** Proposes a one-time augmentation of $11 million to address special repair projects. Baseline funding for special repairs is $11.5 million, while CDCR has reported that the unfunded special repair projects now exceed $194 million. CDCR indicates that the augmentation represents the extent of the budget year activity that can be undertaken by CDCR.		11,000
12	**Authority to Contract for Adult Beds.** Proposes budget bill language to authorize CDCR to contract with providers to build contract bed capacity of up to 8,500 beds, including 4,000 male beds and 4,500 female beds for the 2007-08 fiscal year.		
13	**Gang Management.** Proposes contract funding to facilitate the formation of a Gang Management Workgroup to include recommendations from consultants identified as nationally recognized gang experts.		200
14	**Kern Valley State Prison Base Staffing.**	56.8	4,579
15	**Employee Compensation Adjustments.**		161,066
16	***Farrell v. Hickman*** **Ward Safety and Welfare Remedial Plan.** Proposes to fund the Ward Safety and Welfare Remedial Plan submitted to the court in November 2005. The budget assumes expenditures of $5.1 million in the current year. The ongoing resources associated with implementing this plan is expected to be $93.8 million by 2009-10.	369.4	47,470
17	***Farrell v. Hickman*** **Healthcare Remedial Plan.** Proposes funding to implement the Healthcare Remedial Plan submitted to the court in September 2005. The proposal assumes two-year rollout of reforms with on-going costs of $9.1 million.	89.7	7,530

Historical Fiscal Trends

Historical Funding for Departments within CDCR

As seen in Table 3, the historical expenditures for the departments within CDCR have been increasing significantly for the last several years. In 1999-00, the expenditures for all the departments that now comprise CDCR totaled $4.8 billion. In 2004-05, the most recent year for actual expenditure data, total expenditures were $6.9 billion – an increase of 44 percent over the past five years.

Table 3. Departments Within CDCR Historical Funding and Total Positions (dollars in thousands)

	Expenditures							
Dept	**1999-00**	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
YACA	$1,635	$3,222	$1,222	$1,147	$1,220	$2,359		
CDC	4,285,295	4,665,235	5,082,635	5,335,007	5,817,069	6,277,669		
BOC	76,714	198,721	213,035	152,526	173,015	147,843		
BPT	17,303	25,802	30,550	29,771	25,421	63,873		
YOPB	3,349	3,476	3,389	3,152	1,584			
CYA	394,552	426,938	433,676	425,730	418,940	423,740		
CPOST		2,196	2,149	2,102	1,022	1,128		
CDCR							$7,694,114	$8,058,265
Total	**$4,778,848**	**$5,325,590**	**$ 5,766,656**	**$5,949,435**	**$ 6,438,271**	**$6,916,612**	**$7,694,114**	**$8,058,265**
Change		$546,742	$441,066	$182,779	$488,836	$478,341	$777,502	$364,151
Percent		11.4%	8.3%	3.2%	8.2%	7.4%	11.2%	4.7%
Authorized Positions	**50,638.8**	**51,641.8**	**50,497.5**	**50,429.9**	**51,336.6**	**54,642.4**	**58,608.8**	**60,966.2**
Change		1,003.0	-1,144.3	-67.6	906.7	3,275.8	3,966.4	2,357.4
Percent		2.0%	-2.2%	-0.1%	1.8%	6.4%	7.3%	4.0%

* Estimated
** Proposed

For the current year, the estimated expenditures include $265.8 million in new General Fund and $14.4 million from other funds requested at the time of the January 10 budget that the CDCR anticipates that it will need to meet its obligations. The increases include $64.4 million because population is higher than projected; $25.4 million to expand the number of cadets in the basic correctional officer academy; $85.1 million in costs from jails housing state inmates; and $97.4 million in employee compensation adjustments. Without these increases, the budget for CDCR would be increasing by 7.2 percent in the current year, rather the estimated 11.2 percent. The LAO reports that the adult inmate population is currently tracking higher than the amount assumed in the January proposal, so the CDCR will likely be requesting additional funds for the current year, and the budget year, at the time of the May Revision due to population increases.

Historical Funding for Adult Corrections

Table 4 below highlights historical expenditures by program for CDC and for adult operations within the CDCR. CDCR Administration now includes some administrative expenditures for all of the programs within CDCR, including juvenile operations, and for the Corrections Standards Authority and the Board of Parole Hearings. Generally, the increases for adult operations have exceeded the total increases for the departments within CDCR. Expenditures for adult operations have grown from $5.3 million in 2002-03 to proposed expenditures of $7.3 billion in 2006-07.

Table 4. CDC and Adult CDCR Summary of Program Expenditures

	Expenditures *(dollars in thousands)*				
Program	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
Institution Program	$3,978,641	$4,274,143	$4,500.235		
Health Care Services Program	878,941	967,832	1,053,124		
Inmate Education Program		-	162,178		
Community Correctional Program	477,424	575,093	562,132		
Administration	136,208	130,676	142,926		
Distributed Administration	-136,208	-130,676	-142,926		
State Mandated Local Program	1	1	1	0	
CDCR Administration				208,681	243,649
Adult Operations				4,713,759	4,868,653
Parole Operations – Adult				717,983	693,504
Community Partnerships				1,858	7,727
Education, Vocation, & Offender Programs				236,608	271,376
Correctional Healthcare Services				1,052,898	1,182,755
Total	**$5,335,007**	**$5,817,069**	**$6,277,669**	**$6,937,787**	**$7,267,664**
Change		$482,026	$460,600	$660,118	$329,877
Percent		9.0%	7.9%	10.5%	4.8%

* Estimated
** Proposed

Table 5 highlights the average cost per adult inmate, as calculated in the Governor's Budget display. The average cost has been steadily increasing for the last several years.

Table 5. Average Cost per Inmate at CDCR As Calculated in the Governor's Budget Display

1999-00	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07***
$22,737	$25,307	$27,705	$28,654	$31,288	$34,263	$34,150	$35,587

* Projected

Table 6 shows the increase in General Fund expenditures at the Adult Corrections over time. On a percentage basis, the largest increases where in the 1980s and early 1990s when California was activating new prisons. However, in the last few years, CDC has experienced one-year increases that of 9 percent, including 10.3 percent in the current year. The last column shows how the 1984-85 expenditures would have grown if they grew at the same rate as the California Consumer Price Index. The comparison merely illustrates that the expenditures in CDC have grown significantly faster than inflation. The comparison does not take into account other factors affecting CDC expenditures such as sentencing changes, nor does it account for the changes in the population in California as a whole. Of note, due to the fact that the adult inmate population is higher than projected in January, it is very likely that additional General Fund resources will be requested for the current year, and the budget year, at the time of the May Revise.

Table 6. CDCR Adult Corrections General Fund Expenditures Over Time

Year	CDC General Fund Expenditures	Change	Percent Change	1984-85 CDC Expenditures grown by the California CPI
1984-85	$766,603			766,603
1985-86	$1,037,860	$271,257	35.4%	797,584
1986-87	$1,187,009	$149,149	14.4%	823,522
1987-88	$1,368,190	$181,181	15.3%	858,105
1988-89	$1,519,893	$151,703	11.1%	899,894
1989-90	$1,891,652	$371,759	24.5%	945,285
1990-91	$2,130,475	$238,823	12.6%	995,719
1991-92	$2,384,228	$253,753	11.9%	1,031,744
1992-93	$2,365,851	-$18,377	-0.8%	1,064,886
1993-94	$2,699,698	$333,847	14.1%	1,083,619
1994-95	$2,902,234	$202,536	7.5%	1,102,352
1995-96	$3,216,651	$314,417	10.8%	1,118,203
1996-97	$3,431,219	$214,568	6.7%	1,144,141
1997-98	$3,629,449	$198,230	5.8%	1,165,835
1998-99	$3,989,540	$360,091	9.9%	1,197,697
1999-00	$4,189,829	$200,289	5.0%	1,235,403
2000-01	$4,584,934	$395,105	9.4%	1,289,920
2001-02	$4,998,331	$413,397	9.0%	1,325,464
2002-03	$5,191,604	$193,273	3.9%	1,359,327
2003-04*	$5,683,986	$492,382	9.5%	1,385,155
2004-05	$6,156,453	$472,467	8.3%	1,430,865
2005-06**	$6,790,280	$633,827	10.3%	1,499,546
2006-07**	$7,123,341	$333,061	4.9	1,536,285

*Total includes $852 million that was funded from the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 on a one-time basis. The Administration used these funds to offset General Fund.

** Estimated.

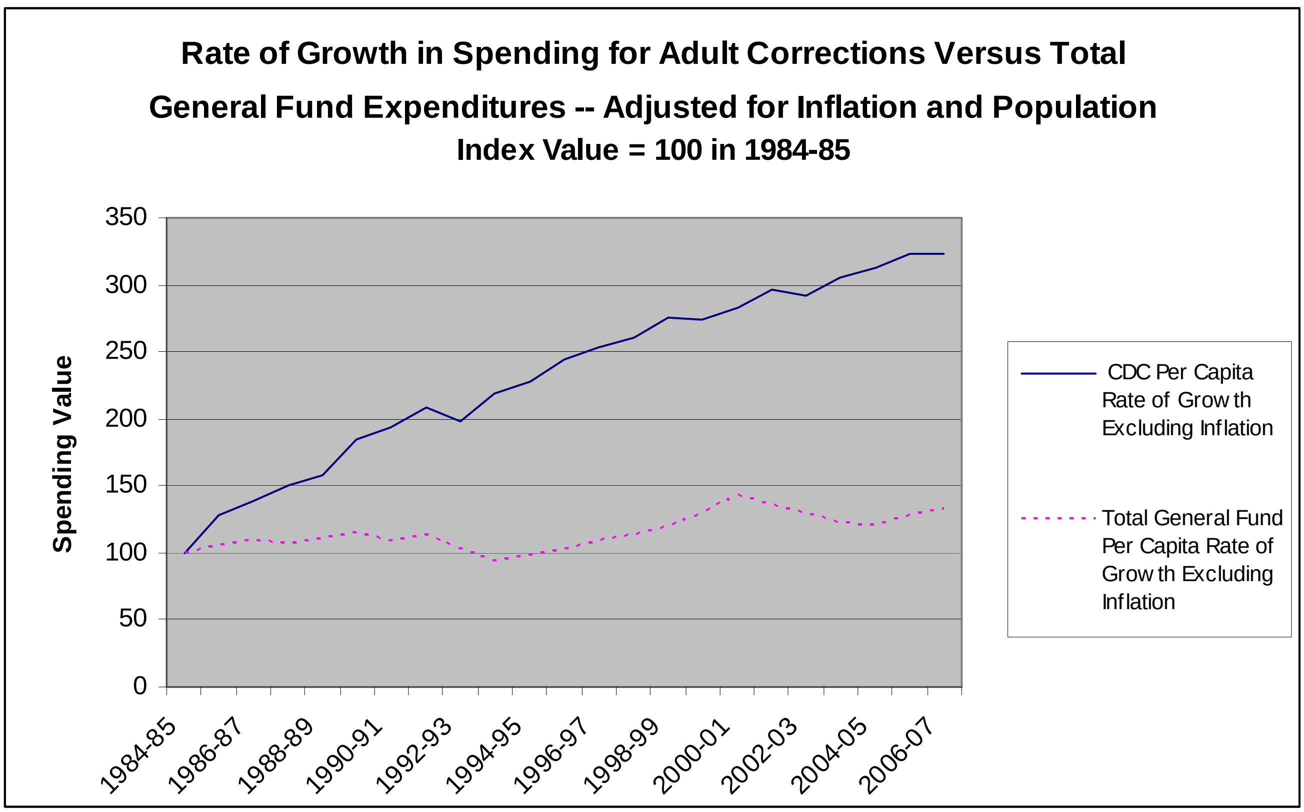
Table 7 shows the real per-capita rate of growth in spending for CDC and for the total General Fund. As can be seen in the table, real per-capita spending – which adjusts for both inflation and population growth – has increased by 32.4 percent for the total General Fund and 223.3 percent for CDC General Fund since 1984-85. Figure 1 shows this graphically.

Table 7. Rate of Growth Since 1984-85 in Real Per-Capita Spending
(Index Value = 100 in 1984-85)

Year	CDC General Fund	Total General Fund	Year	CDC General Fund	Total General Fund
1984-85	100.0	100.0	1996-97	253.5	108.1
1985-86	128.1	106.1	1997-98	259.9	112.8
1986-87	138.1	109.1	1998-99	276.3	119.3
1987-88	150.1	107.9	1999-00	274.1	129.7
1988-89	157.5	110.9	2000-01	282.9	143.5
1989-90	184.0	114.4	2001-02	296.1	135.5
1990-91	194.1	109.3	2002-03	291.8	129.8
1991-92	208.2	112.8	2003-04	259.3	122.1
1992-93	198.4	102.4	2004-05	312.3	120.7
1993-94	218.9	94.1	2005-06*	322.7	127.9
1994-95	227.2	97.9	2006-07	323.3	132.4
1995-96	244.7	102.9			

*Estimated

Figure 1



Cost Drivers

The CDCR's budget is primarily determined by the projected number of inmates that will be housed in its prisons, and on the number of persons projected to be on supervised parole in the community. Based on these projections, the department determines how many staff are required to supervise this population and what resources are needed to provide other mandated services such as education and health care services. Thus, the most important determinates of the costs to operate CDC are: (1) the numbers of inmates and parolees, (2) the level of compensation for correctional officers and other staff, and (3) the types and levels of services provided.

Population. Information on population changes are discussed later in this background piece. Generally, the inmate population remained fairly flat between 1999 and 2005, increasing from 162,064 to 164,179 in those six years. Since that time, the population has steadily increased. As of March 15, 2006, the institution population is 169,304, and is currently projected to increase to 181,474 over the next five years.

Compensation. Salaries, wages, and benefits for CDCR employees make up the majority of costs for the department. The CDCR reports that salaries, wages, and benefits represent over 68 percent of total costs for the department in the current year and are expected to be over 70 percent of the costs in the budget year.

Types and Levels of Services. In recent years, the CDCR has been involved in a number of court cases that have mandated higher levels of service, particularly in the areas of healthcare services and mental health services. The following are court cases which have resulted in remedial plans by CDCR to address deficiencies found by the courts.

- *Coleman* regarding delivery of mental health services
- *Plata* regarding delivery of healthcare services
- *Perez* regarding delivery of dental services
- *Valdivia* regarding the parole revocation process
- *Madrid* regarding the conditions at Pelican Bay State Prison
- *Farrell* regarding the conditions at state juvenile justice facilities

As an example of the effect of these cases on positions and funding for the department, Table 8 below highlights the funding provided since 2004-05 to the departments within CDCR related to the *Valdivia* lawsuit. Over the three years, the projected augmentations for *Valdivia* total 492 positions and $79.8 million.

Table 8. Total *Valdivia* Authority, Including Budget Change Proposal Requests for 2006/07

	2004/05		**2005/06**		**2006/07**		**Total**	
	Pys	**Funding**	**Pys**	**Funding**	**Pys**	**Funding**	Pys	Funding
Finance Letters	314.2	$56,931	20.6	$2,063	0.0	$0	334.8	$58,994
Fall POP	0.0	$0	21.2	$9,588	31.9	$12,037	53.1	$21,625
Baseline Adjustments	12.8	$8,951	61.1	$6,955	0.0	$0	73.9	$15,906
Full Year Adjustments	0.0	$0	58.2	-$6,738	-28.2	-$9,975	30.0	-$16,713
Totals	**327.0**	**$65,882**	**161.1**	**$11,868**	**3.7**	**$2,062**	**491.8**	**$79,812**

CDCR Per Capita Costs

A look at the per capita cost calculation provides some information on what areas of the CDRC budget are driving cost increases. Table 9 below highlights the inmate per capita calculation for the three prior years, 2002-03 through 2004-05.

Table 9. Inmate Per Capita for 2002/03 Through 2004-05*

	2002/03	% of total	2003/04	% of total	2004/05	% of total	% Growth 2002/03 to 2004/05
Security & Reception	$2,125,173,000	48.0%	$2,373,459,000	49.2%	$2,692,493,000	50.9%	26.7%
Inmate Support & Employment	1,266,367,000	28.6%	1,333,472,000	27.6%	1,384,812,000	26.2%	9.4%
Education	152,460,000	3.4%	151,907,000	3.1%	162,178,000	3.1%	6.4%
Healthcare Services	878,941,000	19.9%	967,832,000	20.1%	1,053,124,000	19.9%	19.8%
Total	4,422,941,000	100.0%	4,826,670,000	100.0%	5,292,607,000	100.0%	19.7%
Average Daily Population	151,176		153,923		153,932		1.8%
Inmate Per Capita	$29,257		$31,358		$34,383		17.5%

*Based on display in the Governor's budget. The per capita calculation excludes certain expenditures, such as local assistance, CCF contract costs, and lease payments.

Based on the information in the Governor's budget display, between 2002/03 and 2004/05, the inmate per capita cost grew by 17.5 percent from $29,257 to $34,383. In 2004-05, the costs of security and reception accounted for over 50 percent of total costs. Inmate Support and Employment, which includes costs for food, clothing, facility operation, classification services, records, religion, and inmate employment made up 26.2 percent of the total costs. Healthcare services, including mental healthcare services and dental services, made up nearly 20 percent of the total costs. Education, including academic and vocational education, made up just over 3 percent of the total costs.

Over the period between 2002-03 and 2004-05, the total expenditures increased much faster than the average population. Total expenditures increased by 19.7 percent, from $4.4 billion to $5.3 billion, while the average daily population in institutions increased by 1.8 percent, from 151,176 inmates to 153,932. The costs for security and reception increased the most during the period, increasing by 26.7 percent. The costs for healthcare services also grew faster than total expenditures, increasing by 19.8 percent over the period. The costs for Inmate Support and Education increased more slowly over the period, increasing by 9.4 percent and 6.4 percent respectively.

Historical Deficiencies.
Tables 10 and 11 highlight deficiency funding at the CDC and CDCR since 1997-98. The policy related deficiencies highlighted in Table 8 include structural deficiencies in that period. The CDC has indicated that the budget shortfalls occurred as a result of a number of factors including: (1) higher than budgeted use of overtime, (2) higher than budgeted use of sick time, (3) increased costs for pharmacy and contract medical services, (4) workers' compensation costs, (5) utility costs, (6) labor contract provisions, and (7) retirement costs. In addition, another cause for the deficiency was custody-related expenditures for unbudgeted and unauthorized posts and posted positions.

Table 9 highlights the population related deficiency funding. Generally, the population at CDCR increased faster than was projected in the budget between 2000-01 and 2005-06. The majority of large deficiency amounts in 2003-04 and 2004-05 are attributable to implementation delays and eventual non-implementation of parole reforms adopted in 2003-04 and 2004-05.

Table 10. Policy Related Deficiency Funding Received by CDC

	***Fiscal Year** (dollars in millions)*								
	1997/98	**1998/99**	**1999/00**	**2000/01**	**2001/02**	**2002/03**	**2003/04**	**2004/05**	**2005/06***
Amount	**$6.2**	**$106.4**	**$20.1**	**$171.6**	**$249.4**	**$144.5**	**$173.9**	**$7.9**	**$5.8**

* Estimated as of March 15, 2006

Table 11. Population Related Deficiency Funding Received by CDC

	***Fiscal Year** (dollars in millions)*								
	1997/98	**1998/99**	**1999/00**	**2000/01**	**2001/02**	**2002/03**	**2003/04**	**2004/05**	**2005/06***
Amount				**$28.6**	**$7.7**	**$120.7**	**$254.0**	**$227.8**	**$175.0**

* Estimated as of March 15, 2006

Unauthorized Unbudgeted Positions. In prior years, CDC institutions had been running unauthorized, unbudgeted positions. Controls initiated by the DOF now ensure that the post assignment schedules were aligned with the budget authority.

Overtime Costs. Table 12 highlights overtime expenditures versus budget authority from 1999-00 through 2004-05. In those years, CDC significantly expended more on overtime than was provided in its budget.

Table 12. Overtime Budget Authority Versus Expenditures

Year	Budget Authority	Expenditures	Difference
1999-00	$126,346,214	$190,107,926	-$63,761,712
2000-01	$124,540,676	$238,288,530	-$113,747,854
2001-02	$142,333,870	$263,410,403	-$121,076,533
2002-03	$148,596,562	$237,599,555	-$89,002,993
2003-04	$143,124,377	$220,358,157	-$77,233,780
2004-05	$108,681,107	$316,105,603	-$207,424,496

Vacancies. Past reports by the LAO, the Bureau of State Audits, and the DOF identified several drivers of overtime costs within CDC, including correctional officer vacancies, inadequate numbers of relief positions, use of overtime to cover for sick leave and other paid leave programs, and inadequate management controls and oversight.

Table 13 shows the vacancy rates for custody positions in 2002-03, 2004-05 and as of March 2006 for 2005-06. Due to the fact that parole reforms from 2003-04 and 2004-05 were anticipated to lower the adult population significantly, the CDCR also significantly reduced the number of cadets sent through the Academy in 2004-05. With the population increasing rather than decreasing and a large number of anticipated retirements in the next couple of years, the CDCR is spending an additional $25 million in the current year and a proposed $54 million in the budget year to expand the number of cadets graduating from the Basic Correctional Officer Academy.

Table 13. Vacancy Rates for Custody Positions

	Correctional Officer			Correctional Sergeant			Correctional Lieutenant			Totals		
	Positions	Vacant	% Vacant	Positions	Vacant	% Vacant	Positions	Vacant	% Vacant	Positions	Vacant	% Vacant
FY 2002-03 /1	20,096	398	2.0%	2,528	198	7.8%	1,051	104	9.9%	23,675	700	3.0%
FY 2003-04	Not Available											
As of June 2005 (FY 2004-05) /2	22,244	1,620	7.3%	2,736	517	18.9%	1,169	122	10.4%	26,146	2,258	8.6%
As of March 2006 (FY 2005-06) /2	23,110	2,250	9.7%	2,503	196	7.8%	1,113	87	7.8%	26,727	2,533	9.5%

/1 Source: March 4, 2004 Legislative Analyst's Office report to the Joint Hearing of the Senate Select Committees on Government Oversight and the California Correctional System entitled, "Corrections Overtime Expenditures."
/2 Source: State Controller's Office Reports. Note: data prior to FY 2004/05 is no longer available.

Temp Help. Budget authority for temp help is significantly less than actual expenditures, although the amount of expenditures for temp help has been steadily decreasing since 2001-02.

Table 14. Temp Help Budget Authority Versus Expenditures

Year	Budget Authority	Expenditures	Difference
1999-00	$31,436,322	$104,068,162	-$72,631,840
2000-01	$33,076,902	$94,549,693	-$61,472,791
2001-02	$40,558,946	$115,597,358	-$75,038,412
2002-03	$48,289,387	$106,028,848	-$57,739,461
2003-04	$48,251,031	$74,435,172	-$26,184,141
2004-05	$42,038,739	$60,350,066	-$18,311,327

On the next page, Table 15 shows budget authority versus expenditures for medical guarding. Medical Guarding costs are the custody and transportation costs incurred when inmates are sent out to hospitals for medical services. Medical Guarding expenditures have increased from $19.2 million in 1999-00 to an estimated $35.5 million in the current year. The numbers on this chart only include the overtime costs for medical guarding and does not include established guarding teams using positions. The CDCR received augmentations to these teams in 2001-02 and in 2004-05.

Table 15. Medical Guarding Budget Authority Versus Expenditures

Year	Budget Authority	Expenditures	Difference
1999-00	$16,000,000	$19,163,340	($3,163,340)
2000-01	$16,000,000	$27,649,406	($11,649,406)
2001-02	$16,187,933	$31,511,968	($15,324,035)
2002-03	$16,187,933	$29,677,894	($13,489,961)
2003-04	$16,187,933	$29,328,269	($13,140,336)
2004-05	$26,158,743	$35,262,245	($9,103,502)
2005-06*	$26,158,743	$35,494,976	($9,336,233)

* 2005-06 expenditures are projected as of March 15, 2006

Medical Cost Drivers. Other cost drivers include, pharmacy and medical supplies, and contract medical expenditures. These costs are highlighted later in the section on Healthcare Services.

How has CDCR managed its allotments to manage surpluses and deficits?

Table 16 below highlights broadly the allotment and expenditure data for 2004-05. Based on the data, in 2004-05, the CDC created and used surpluses in Central Administration and Parole to fund deficits that accrued in Healthcare Services and in Institutions generally.

Table 16. General Fund Allotment Expenditure Summary for 2004-05
(dollars in millions)

	Allotment	Expenditures	Surplus/Deficit
CDC Central Administration	$710.3	$649.5	$60.8
CDC Parole	510.0	479.7	30.3
Board of Prison Terms	71.0	63.9	7.1
YACA Secretary	2.8	2.8	0.0
Board of Corrections	3.0	3.0	0.0
Total Headquarters	*$1,297.1*	*$1,198.9*	*$98.2*
Institutions	$3,602.4	$3,608.5	-$6.1
Education	153.0	154.8	-1.8
Healthcare	887.8	967.0	-79.2
Total CDC Institutions	*$4,643.2*	*$4,730.3*	*-$87.1*
CYA Administration	$33.6	$31.6	$2.0
Disencumbered Planned Expenditures	0.0	-3.6	3.6
Parole	34.3	34.4	-0.1
CYA Institutions	336.0	341.5	-5.5
Total CYA	*$403.9*	*$403.9*	*$0.0*
Total YACA Agency	**$6,344.2**	**$6,333.1**	**$11.1**

Adult Corrections Population

Table 17 shows the historical adult institution and parole populations since 1999 and the projected population increases through 2011. In the period between 1999 and 2005, the population remained stable, increasing from 162,064 to 164,179. The population has begun to increase steadily since that time, with the population projected to increase to 181,474 by 2011.

Table 17. Historical & Projected Adult Institution and Parole Populations (as of June 30th of each year)

Year	Institution Population	Change	Percent Change	Parole Population	Change	Percent Change
1999	162,064			112,494		
2000	162,000	(64)	0.0%	119,298	6,804	6.0%
2001	161,497	(503)	-0.3%	119,636	338	0.3%
2002	157,979	(3,518)	-2.2%	120,336	700	0.6%
2003	160,931	2,952	1.9%	116,173	(4,163)	-3.5%
2004	163,500	2,569	1.6%	112,685	(3,488)	-3.0%
2005	164,179	679	0.4%	115,371	2,686	2.4%
2006*	168,583	4,404	2.7%	115,920	549	0.5%
2007*	172,019	3,436	2.0%	116,847	927	0.8%
2008*	174,994	2,975	1.7%	117,125	278	0.2%
2009*	177,747	2,753	1.6%	117,447	322	0.3%
2010*	179,789	2,042	1.1%	118,772	1,325	1.1%
2011*	181,474	1,685	0.9%	119,967	1,195	1.0%

* Projected in Fall 2005 projections

Table 18 highlights some of the characteristics of the adult CDCR population. Males make up a vast majority of the institution population. Just over half of the population is in prison for crimes against persons such as homicide, robbery, assault and battery, sex offenses, and kidnapping. The average reading level for inmates entering the population is 7th grade. The average age of the population has been increasing slightly over time and is now currently 36. The average time served for inmates released in the fourth quarter of 2005 was 24.8 months.

Table 18. Characteristics of the CDCR Adult Institution Population as of the 4th Quarter of 2005

Males	93%
Females	7%
Race	28% white; 29% black; 37% Hispanic; 6% other
Offense	51% persons; 21% property; 20% drugs; 8% other
Average Reading Level	Seventh grade
Average Age	36
Average Time Served	24.8 months

Table 19 highlights the admission/return status for offenders as of December 31, 2005. Inmates that had been new admissions made up 64 percent of the population, and inmates returned from parole with a new crime or a revocation made up 36 percent of the population.

Table 19. Total Adult Institution Population Offenders by Admission/Return Status as of December 31, 2005

Admission/Return Status	Number	Percent
New Admission	107,571	64.0
Parole Violator -- With A New Term (PV-WNT)	41,591	24.7
Parole Violator – Returned to Custody (PV-RTC)	14,077	8.4
Pending Revocation	4,816	2.9
Total Population	168,055	100.0

Table 20 highlights the institution population movements for calendar year 2004, the most recent data available. Every year, a significant number of offenders are released from prison onto parole. In 2004, 120,598 offenders were paroled back to the communities that they came from. In that same period, 58,902 parolees had their parole revoked, 17,823 parolees where returned from court with a new term, and 46,812 new felons were admitted into the system.

Table 20. Adult Institution Population Movements for Calendar Year 2004

Offenders Paroled	120,598
Parole Violators Returned to Custody for Violations of Parole Conditions	58,902
Felon Parole Violators Returned With New Terms	17,823
Felon New Admissions	46,812

CDCR Population is at Historical Highs. The adult population at CDCR has been at historical highs for the last year. As of March 15, 2006, the institution population is 169,304. The CDCR indicates that it has a permanent capacity for 156,753 male and female beds, including contract beds. In order to house the increased population, CDCR has indicated that it has activated 14,844 non-traditional male and female beds. These non-traditional beds include triple bunking gymnasiums, dayrooms, and other program space.

Budget Proposes Authority to Contract for Adult Beds. The proposed budget includes budget bill language to authorize CDCR to contract with providers to build contract bed capacity of up to 8,500 beds, including 4,000 male beds and 4,500 female beds for the 2007-08 fiscal year. These contract beds would potentially become available in early 2008, and would provide housing for Level I and Level II minimum security inmates. There are no other capacity-building or population reduction strategies contained in the budget proposal.

Healthcare Services

The budget for the Healthcare Services Division of CDCR has increased steadily since it was created as a separate program in 1997-98, averaging greater than 10 percent annual growth. In 1998-99, expenditures for the healthcare services division were $512.8 million. In 2004-05, expenditures totaled $1.1 billion. Table 21 highlights the growth in healthcare services expenditures. Due to changes in the way administration is calculated since the reorganization, the totals for 2005-06 and 2006-07 do not include distributed administration costs that were formerly included in the calculation.

Table 21. Healthcare Services

	Expenditures *(dollars in thousands)*								
Program	**1998-99**	**1999-00**	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
Health Care Services	$512,833	$565,897	$675,597	$796,773	$878,941	$967,832	$1,053,124	$1,052,898	$1,182,755
Change		53,064	109,700	121,176	82,168	88,891	85,292	-226	129,857
Percent		10.3%	19.4%	17.9%	10.3%	10.1%	8.8%	0.0%	12.3%

* Estimated. With the Reorganization, the Healthcare Services line item no longer includes distributed administration costs.
** Proposed. With the Reorganization, the Healthcare Services line item no longer includes distributed administration costs.

Healthcare Services Cost Drivers

In the area of Healthcare Services, there have been a number of federal court cases which have alleged deficiencies in the delivery of healthcare services in CDC institutions. In recent years, three class action lawsuits have increased the positions and funding for mental health services, healthcare services and dental care services.

Plata Settlement. In January 2002, the state entered into the *Plata* settlement agreement, committing to significant changes in the delivery of health care services to inmates. In response to the *Plata* settlement agreement, the Legislature – as part of the *2002-03 Budget Act* – approved a multi-year plan authorizing nearly 1,400 health related positions to be phased in over a six-year period at a cost of approximately $90 million annually when fully implemented. Under the proposal, policy changes and health staff were to be phased in at five to eight prisons per year beginning in 2002-03 and ending in 2007-08. Table 22 shows the funding and positions as originally approved.

Table 22. *Plata* Positions and Funding

Fiscal Year	Positions	Ongoing Costs	Onetime Costs
2002-03	220	$21,386,000	$4,341,000
2003-04	257	14,121,000	5,520,000
2004-05	238	13,647,000	2,924,000
2005-06	205	11,629,000	2,999,000
2006-07	210	11,580,000	2,970,000
2007-08	269	14,353,000	3,136,000
Totals	**1,399**	**$86,716,000**	**$21,890,000**
Total Cost for Six Years			**$108,606,000**

Coleman. The *Coleman* court case challenged the accessibility of mental health services in CDC institutions. Beginning in fiscal year 1994-95, in response to *Coleman* court orders, CDC developed and implemented the Mental Health Delivery System. Table 23 below, highlights the recent budget augmentations related to the Coleman case.

Table 23. *Coleman* Positions and Funding

	2002/2003		2003/2004		2004/2005 1/		2005/2006 2/		2006/2007	
Process	**Position**	**$'s**	**Position**	**$'s**	**Position**	**$'s**	**Position**	**$'s**	**Position**	**$'s**
Policy BCP			37.8	$4,200,000						
Pop BCP										
Finance Ltr	110.0	$8,141,000					51.3	$5,235,000		
Full Yr Ex.				$209,140		$929,904				
Leg Chg.										
May Revise										
Prop. FL										
Total	**110.0**	**$8,141,000**	**37.8**	**$4,409,140**	**0.0**	**$929,904**	**51.3**	**$5,235,000**	**0.0**	**$0**

1/ The Fiscal year 2004/05 figure is the net of two Full Year adjustments : Corocoran R&R ($236,096) and Ad Seg Modulars $1,166,000
2/ The Fiscal Year 2005/06 figure is a net of two late Finance Letters: MHSDS Coleman $4,115,000 / 51.3 positions and MHSDS Coleman R&R $1,120,000

Perez. The CDCR has entered into a settlement agreement in the *Perez* class action, which alleges that the CDCR fails to provide a system for delivery of dental care that ensures inmates' serious dental needs are addressed in a timely manner, and subjects inmates to suffer permanent and unnecessary damages. Expenditures in 2005-06 were in anticipation of the settlement. Implementation of the settlement agreement is proposed to take place over six years. In addition to the resources requested for 2006-07, the proposal requests 60 PYs and $8.2 million in 2007-08, and 133 PYs and $8.9 million in 2008-09. A new request will be made in 2009-10 to address the remaining institutions based on the implementation schedule in the agreement.

Table 24. *Perez* Positions and Funding

	2005/2006		2006/2007[1]	
	Position	**Funding**	**Position**	**Funding**
Policy BCP			326.2	$21,487,000
Pop BCP				
Finance Letter	88.5	$17,320,000		
Full Yr Exercise.				$6,540,270
Leg Change.	0	($4,000,000)		
May Revise				
Total	**88.5**	**$13,320,000**	**326.2**	**$28,027,270**

1/ 2006/07 Inmate Dental Program Full Year Exercise includes $4,000,000 and $2,540,270 attached to 50 positions.

Vacancies for Medical Positions. In an April 2004 report on contract medical, the Bureau of State Audits (BSA) noted that the use of medical registry contracts to fill vacant medical positions was the fastest growing component of contract medical services. Table 25 shows the statewide vacancy rates for certain medical classifications. The BSA report noted that the vacancy rates vary widely between institutions – noting that while the statewide rate for registered nurses was about 20 percent, some institutions had rates as high as 79 percent while others had vacancy rates as low as 5 percent.

Table 25. Vacancy Rates of Selected Medical Classifications February 1, 2003 through February 1, 2006

Classification:	Med Tech Assistants			Registered Nurse			Staff Psychiatrists		
SCO Report	Authorized	Vacant	% Vacant	Authorized	Vacant	% Vacant	Authorized	Vacant	% Vacant
02/01/2003	919.3	161.9	17.6%	796.4	164.3	20.6%	159.8	39.1	24.5%
02/01/2004	1,018.7	227.1	22.3%	979.6	250.4	25.6%	168.8	50.3	29.8%
02/01/2005	1,018.6	210.9	20.7%	1,072.9	305.1	28.4%	183.7	63.5	34.6%
02/01/2006	1,087.8	270.0	24.8%	1,174.7	327.2	27.9%	198.5	77.6	39.1%

Classification:	Pharmacists (I &II)			Physician & Surgeon		
SCO Report	Authorized	Vacant	% Vacant	Authorized	Vacant	% Vacant
02/01/2003	116.7	27.2	23.3%	268.5	30.0	11.2%
02/01/2004	117.2	35.2	30.0%	266.5	19.0	7.1%
02/01/2005	118.2	45.2	38.2%	261.5	21.5	8.2%
02/01/2006	120.7	52.7	43.7%	268.5	73.5	27.4%

Classification:	Psychologists			Psychiatric Social Worker		
SCO Report	Authorized	Vacant	% Vacant	Authorized	Vacant	% Vacant
02/01/2003	360.8	103.2	28.6%	141.4	41.8	29.6%
02/01/2004	393.9	68.6	17.4%	141.4	28.3	20.0%
02/01/2005	419.3	83.5	19.9%	145.3	32.8	22.6%
02/01/2006	483.4	143.1	29.6%	154.7	44.2	28.6%

The BSA report concluded that CDC should continue to monitor prisons' registry contract expenditures and evaluate the prisons' needs so that it can identify opportunities to control expenditures and ensure that prisons are not violating state law by using registry staff on a permanent basis.

Contract Medical Expenditures. Contract Medical expenditures continue to grow in recent years. Table 26, on the next page, highlights expenditures for contract medical, including medical registry contracts and contracts with hospitals for medical services. Annual expenditures have grown from $111.3 million in 1999-00 to an estimated $330.6 million in the current year.

Table 26. Contract Medical Budget Authority Versus Expenditures

Year	Budget Authority	Expenditures	Difference
1999-00	$69,239,000	$111,278,565	($42,039,565)
2000-01	$121,521,027	$154,859,373	($37,412,879)
2001-02	$210,568,489	$199,544,372	$8,906,107
2002-03	$206,520,451	$239,321,518	($33,066,747)
2003-04	$204,453,636	$278,821,147	($32,801,067)
2004-05	$208,789,406	$314,926,190	($106,136,784)
2005-06*	$190,157,215	$330,586,893	($140,429,678)

* 2005-06 expenditures are projected as of March 15, 2006

Medical/Pharmaceutical Supplies

As can be seen in Table 27, the costs for pharmaceutical and medical supplies have been a growing part of CDC's healthcare services budget. A number of reports, including BSA report 1001-012: January 2002, have highlighted shortcomings in the area of purchasing, distribution, and a pharmacy IT system. CDCR has made efforts in recent years to reduce pharmaceutical expenditures through implementation of a drug formulary, improvements in cost containment and purchasing, and development of a pharmacy IT system.

Table 27. Medical/Pharmaceutical Supplies Budget Authority Versus Expenditures

Year	Budget Authority	Expenditures	Difference
1999-00	$55,112,059	$77,641,803	($22,529,744)
2000-01	$98,454,347	$99,345,446	($891,099)
2001-02	$124,195,146	$118,258,603	$5,936,543
2002-03	$123,680,146	$134,206,456	($10,526,310)
2003-04	$117,703,168	$138,283,839	($20,580,671)
2004-05	$127,890,581	$148,475,543	($20,584,962)
2005-06*	$138,698,897	$154,536,968	($15,838,071)

* 2005-06 expenditures are projected as of March 15, 2006

Division of Juvenile Justice

Division of Juvenile Justice (DJJ) Wards at a Glance.

Table 28. Characteristics of the DJJ population as of June 30, 2004 (Showing Percentages of Totals)	
Category	Percentage
Gender	
Male	95.0
Female	5.0
Court of Commitment	
Juvenile	96.8
Criminal	3.2
Top Five Counties of Commitment	
Los Angeles	24.5
San Bernardino	7.2
Fresno	5.9
Riverside	5.4
Alameda	5.0
Commitment Offense	
Violent Offenses	59.3
Property Offenses	21.8
Drug Offenses	3.9
Other Offenses	15.5
Admission Status	
1st Commitment	84.5
1st Return	11.4
2nd Return	3.4
3rd Return or more	0.7
Ethnicity	
Hispanic	49.5
African American	29.5
White	15.5
Asian	3.3
Other	2.3
Average Age (years)	19.3

Table 29 highlights the budget for the CYA and the Division of Juvenile Justice (DJJ) since 1999-00. While the budget for DJJ has remained relatively stable in this period, the ward population has decreased from 7,380 in 2000 to an estimated 2,680 by the end of the budget year. As a consequence, the average cost per ward has increased from about $46,000 in 1999-00 to an estimated $149,000 in 2006-07.

Table 29. CYA and Division of Juvenile Justice Summary of Program Expenditures

	Expenditures *(dollars in thousands)*							
Program	**1999-00**	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
Institutions & Camps	$293,968	$309,038	$326,135	$322,117	$328,661	$339,668		
Parole Services	48,639	62,406	55,074	54,160	43,030	40,195		
Education Services	50,081	52,660	50,877	47,869	44,871	40,386		
Youth Authority Board					1,509	3,232		
Administration	21,121	27,154	28,417	28,364	27,537	31,154		
Distributed Admin	(19,257)	(24,320)	(26,827)	(26,780)	(26,668)	(30,895)		
Juvenile Operations							$178,589	$176,337
Juvenile Parole							40,468	38,734
Education and Programs							138,523	179,404
Healthcare							56,135	62,119
Total	**$394,552**	**$426,938**	**$433,676**	**$425,730**	**$418,940**	**$423,740**	**$413,715**	**$456,594**
Change		$32,386	$6,738	-$7,946	-$6,790	$4,800	-$10,025	$42,879
Percent		8.2%	1.6%	-1.8%	-1.6%	1.1%	-2.4%	10.4%
Ward Pop (June 30)	**7,380**	**6,776**	**5,847**	**4,879**	**3,888**	**3,205**	**2,920**	**2,680**
Percent Change		-8.2%	-13.7%	-16.6%	-20.3%	-17.6%	-8.9%	-8.2%
Parole Pop (June 30)	**4,642**	**4,355**	**4,160**	**4,089**	**4,037**	**3,643**	**3,420**	**3,175**
Percent Change		-6.2%	-4.5%	-1.7%	-1.3%	-9.8%	-6.1%	-7.2%
Avg. Cost per Ward	**$46,128**	**$51,502**	**$59,986**	**$69,284**	**$85,411**	**$107,236**	**$121,877**	**$149,236**
Avg. Cost per Parolee	**$9,620**	**$13,645**	**$12,936**	**$13,131**	**$10,591**	**$10,467**	**$11,459**	**$11,746**

* Estimated
** Proposed

Table 30 , on the next page, shows the number of positions at CYA and DJJ over time. While the overall staff at DJJ has decreased over time, administration positions actually increased from 277 in 1999-00 to 332 positions in 2004-05. Due to the reorganization, DJJ administration positions are no longer identified separately from CDCR administration positions.

Table 30. CYA & Division of Juvenile Justice Historical Number of Positions

	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06*	2006-07**
Institutions & Camps	3,682		3,441	3,440	3,156	2,785		
Parole Services	333		293	238	236	194		
Education Services	705		675	547	471	388		
Youth Authority Board					9	19		
Administration	277		291	284	294	332		
Distributed Admin								
Juvenile Operations							1,412	1,729
Juvenile Parole							202	198
Education and Programs							2,017	1,985
Healthcare							234	332
Total Positions	**4,967**	**4,934**	**4,701**	**4,509**	**4,165**	**3,717**	**3,866**	**4,244**

* Estimated
** Proposed

Farrell Remedial Plan. A major factor in the proposed increase for DJJ in 2006-07 is due to the positions and funding being requested as part of the *Farrell* Remedial Plans. Table 31 shows the proposed augmentations related to the *Farrell* Remedial Plans. In 2006-07 the proposed augmentation totals 800 positions and $84.1 million. For 2007-08 the funding would grow to 1,011 positions and $105.9 million.

Table 31. Projected Costs for the *Farrell* Remedial Plans*
(dollars in thousands)

	2005-06		2006-07		2007-08	
Remedial Plan	**Positions**	**Funding**	**Positions**	**Funding**	**Positions**	**Funding**
Education Remedial Plan	208	$17,088	208	$20,886	208	$20,886
Interim Mental Health Remedial Plan	15	$1,215	15	$1,015	15	$1,015
Sex Offender Treatment Remedial Plan	20	$2,464	43	$4,394	43	$4,394
Disability Remedial Plan	12	$3,108	12	$2,811	12	$1,011
Healthcare Remedial Plan			113	$7,530	113	$9,000
Ward Safety and Welfare Remedial Plan**	105	$5,163	409	$47,470	620	$69,662
Totals	**360**	**$29,038**	**800**	**$84,106**	**1,011**	**$105,948**

* Estimated costs for 2006-07 and future years are subject to adjustments due to actual DJJ population.
** DJJ will be seeking current year funding for the Ward Safety Plan in legislation.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, March 30, 2006
9:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

2600 California Transportation Commission

The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

The Governor proposes total expenditures of $2.1 million (no General Fund) and 14.0 positions for the CTC – a decrease of $2.1 million and an increase of 1.0 position from the revised current-year level.

The budget reflects reduced expenditures of Proposition 116 bond funds: $5.4 million was expended in 2004-05; $2.0 million was expended in 2005-06; and no funds are budgeted for grant expenditures in 2006-07. According to the CTC's *2005 Annual Report to the California Legislature*, $181.1 million in Proposition 116 funds remain unallocated due to project delays or cancellations. The majority of the balance ($121.3 million) is earmarked for the "construction of a guideway demonstration project" in Orange County. In July 2005, the Orange County Transportation Authority (OCTA) Board voted to discontinue the Orange County Centerline light rail project. The City of Irvine and the OCTA are currently pursuing the idea of other projects in the area that are Proposition 116 eligible.

Discussion / Vote Issues

1. **The Transportation Funding Picture (Informational).** The Legislative Analyst and the California Transportation Commission are prepared to make short presentations concerning the current transportation funding picture and describe what the anticipated funding level suggests for mobility improvements.

   Staff Recommendation: Informational item – no action needed.

2. **Toll Bridge Seismic Oversight Positions:** The Administration requests a net augmentation of $171,000 and one position to perform oversight work related to the Toll Bridge Seismic Retrofit Program. Additionally, one-half of an existing position would be redirected to this workload. Oversight responsibility was added to the CTC's workload with the passage of AB 144 (Chapter 71, Statutes of 2005), which enacted a financing plan to complete work on the new east span of the San Francisco - Oakland Bay Bridge. AB 144 requires the Executive Director of the CTC to serve on the Toll Bridge Oversight Committee. The new position would be funded by reimbursements from the Bay Area Toll Authority.

   Staff Comment: The CTC indicates that the Bay Area Toll Authority has agreed to a higher reimbursement level than that approved by the Department of Finance. Additionally, the CTC indicates the higher funding level, as well as the workload, would support an additional 2.0 positions.

   Staff Recommendation: Keep issue open for further discussions on the appropriate level of staffing.

2640 Special Transportation Programs

The Special Transportation Program provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation operations and projects. Revenue comes from the sales tax on diesel fuel and a small portion of the sales tax on gasoline.

The Governor proposes funding of $235.0 million for Special Transportation Programs – an increase of $3.9 million over revised current-year funding. The funding level is based on the Department of Finance's revenue forecast and existing statutory formulas. The increase in funding is primarily due to projections of higher Proposition 42 revenues.

Staff Recommendation: Keep this budget open because the Administration generally provides a new forecast of these revenues with the May Revision of the Budget.

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

The Governor proposes total expenditures of $11.5 billion ($2.3 billion General Fund), a decrease of $900 million from the revised current-year expenditures. The decrease in expenditures is primarily due to fluctuations in the Toll Bridge Seismic Retrofit Program. The budget reflects a full Proposition 42 (gasoline sales tax) transfer of $1.4 billion in 2006-07 and assumes transportation loan repayment of $1.0 billion in 2005-06 (through the sale of tribal gaming bonds) and $920 million in 2006-07 (through a General Fund transfer).

Expenditure by Program (dollars in thousands)	**2005-06**	**2006-07**	**$ Change**	**% Change**
Aeronautics	$8,406	$8,506	$100	1.2
Highway Transportation	10,937,373	$9,868,377	-1,068,996	-9.8
Mass Transportation	818,794	1,138,391	319,597	39.0
Transportation Planning	154,622	190,941	36,319	23.5
Administration	341,670	335,639	-6,031	-1.8
Equipment Program*	179,764	(179,148)*	na	na
Total	$12,440,629	$11,541,854	-$898,775	-7.2

* The Administration proposes to change the Equipment Program to a distributed cost system in 2006-07

Expenditure by Category (dollars in thousands)	2005-06	2006-07	$ Change	% Change
Personal Services	$1,871,905	$1,832,683	-$39,222	-2.1
Operating Expenses and Equipment	1,682,718	$1,414,038	-268,680	-16.0
Tort Payments	41,356	41,356	0	0.0
Debt Service (GARVEE bonds)	72,899	72,899	0	0.0
Local Assistance	2,536,515	3,311,234	774,719	30.5
Capital Outlay - Office Buildings	2,510	44,435	41,925	1670.3
Capital Outlay - Transportation Projects	6,190,387	4,794,209	-1,396,178	-22.6
Unclassified	42,339	31,000	-11,339	-26.8
Total	$12,440,629	$11,541,854	-$898,775	-7.2

Expenditure by Fund Type (dollars in thousands)	2005-06	2006-07	$ Change	% Change
General Fund	$1,345,148	$2,326,287	$981,139	72.9
Federal Trust Fund	3,362,881	$3,547,920	185,039	5.5
Special Funds and Bond Funds	4,884,934	3,913,729	-971,205	-19.9
Reimbursements	2,847,666	1,753,918	-1,093,748	-38.4
Total	$12,440,629	$11,541,854	-$898,775	-7.2

Vote-Only Issues

1. **Oakland District Office Building Seismic Retrofit (CO BCP #1).** The Administration requests $44.3 million (State Highway Account) to fund the construction-phase of the Oakland District Office building seismic retrofit. This retrofit would upgrade the building from a seismic Risk Level V to a Risk Level III, which is consistent with the State seismic program performance standards.

   Background: The building was constructed in 1991 and was designed utilizing the seismic provisions of the 1988 Uniform Building Code. While it is surprising that a building constructed in 1991 would rate a seismic level V, Caltrans reports that designers and construction firms associated with the 1991 project bear no liability, since the building was constructed to the codes at the time. Seismic research that occurred after the 1991 Northridge earthquake led to a revised understanding of the motion of earthquakes and this resulted in a change in the seismic risk level of certain buildings.

   Funding of $1.3 million was approved in the 2004 Budget Act to fund preliminary plans for this project, and funding of $2.2 million was approved with the 2005 Budget Act for working drawings. The construction cost estimate has been revised upward from $33.0 million estimated last year, to this request for $44.3 million. The Department of Finance indicates the construction cost has escalated because more seismic remediation work is required than originally anticipated.

   (Staff recommends a consolidated vote on the "vote-only issues" – see page 7).

2. **Bay Area Toll Bridges – Changes Related to AB 144 (BCP #2).** The Administration requests a budget shift to reflect: (1) an increase in reimbursements of $616.0 million; (2) a decrease in Toll-Bridge Seismic Retrofit Account expenditures of $593.2 million; (3) a decrease in State Highway Account expenditures of $23.3 million; for a total net decrease in expenditure authority of $1.5 million. These changes adjust the budget to tie to the provisions of AB 144 (Chapter 71, Statutes of 2005), which enacted a funding plan to complete the new east span of the San Francisco Oakland Bay Bridge and other Bay Area toll-bridge seismic work.

   Detail: AB 144 shifted financial management of the Seismic Program from Caltrans to the Bay Area Toll Authority (BATA) and additionally shifted $1 of the existing toll from Caltrans to BATA. The effect of the toll shift is that Caltrans is now reimbursed by BATA instead of receiving the $1 portion of the tolls revenue into the Toll Bridge Seismic Retrofit Account. The net reduction of $1.5 million primarily reflects the transfer of certain toll accounting functions from Caltrans to BATA – with 11 positions also eliminated with this transfer.

3. **Alternative Fuel Vehicles (BCP #4).** The Administration requests a one-time augmentation of $4.0 million (State Highway Account) to purchase alternative fuel vehicles and install exhaust filter trap devices on heavy-duty trucks. Caltrans indicates these measures are necessary to comply with mandates from the South Coast Air Quality Management District (SCAQMD), which is charged with bringing Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino Counties, into federal air quality compliance by 2010.

   Background/Detail: Last year, the Subcommittee approved a similar Finance Letter to augment the Caltrans budget by $3.7 million (one-time) for SCAQMD mandates. At the time, the Administration indicated there was an ongoing cost; however, they preferred to review the need on an annual basis. Caltrans indicates 18 highway sweepers and 29 heavy-duty trucks are due for replacement in 2006-07. The new vehicles would either use compressed natural gas (27 vehicles) or be retrofitted with specially fitted exhaust filter traps (20 vehicles). The exhaust filter traps for heavy duty trucks are less expensive that compressed natural gas vehicles ($8,000 versus $106,000 per vehicle); however, Caltrans cannot pursue that option unless it submits a Technical Infeasibility Certification Request to SCAQMD to justify that there are not enough compressed natural gas vehicles available.

4. **Local Bridge Scour Evaluations (BCP #10).** The Administration requests $927,000 ($821,000 federal funds, $106,000 State Highway Account) and 9.0 positions, to extend, by two years, limited-term positions that expire on June 30, 2006. The positions would evaluate local bridges for "bridge scour," which is the erosion of soil surrounding a bridge foundation caused by water flow.

   Background: Federal regulations require the State to insure inspections, including scour evaluations, are performed on "all structures defined as bridges on all public roads." This includes 12,128 local bridges in California. Through June 2006, it is estimated that Caltrans will have evaluated 7,980 local bridges for scour and that 2,470 bridges will remain. Caltrans indicates that if this request is approved, 1,740 bridges will remain to be evaluated on July 1, 2008.

5. **Fuel Cost Increase (BCP #12).** The Administration requests a permanent augmentation of $5.2 million (State Highway Account) to address higher fuel costs. The Department indicates its current base is $26.5 million, which would be sufficient if fuel prices were in the range of $2.04 per gallon. Caltrans requests an additional $5.2 million which assumes fuel prices will average $2.33 per gallon in 2006-07 and thereafter.

   Background/Detail: Caltrans indicates the $2.33 price assumption ties to a July 2005 Federal Energy Information Agency projection. The Department consumed 13.6 million gallons of fuel in 2004-05. The Department of Finance's forecast for gasoline price is $2.62 per gallon in 2005-06 and $2.31 per gallon in 2006-07.

6. **San Diego Route 125 Toll Road Maintenance (BCP #15).** The Administration requests a permanent augmentation of $912,000 in reimbursement authority and 9.0 positions to maintain the new Route 125 private toll road in San Diego County. The reimbursements offset $324,000 in State Highway Account expenditures such that the net change in expenditure authority is $588,000.

   Background/Detail: The Route 125 private toll-road project was initiated under the provisions of AB 680 (Statutes of 1989), which authorized toll-road demonstration projects. The Route 125 toll road is scheduled to open in the fall of 2006. Caltrans indicates it will be fully reimbursed for its maintenance work on this road, including $324,000 in overhead costs.

Staff Recommendation: Approve the issues on the Vote-Only calendar.

Vote:

Discussion / Vote Issues

1. **Section 26.00 Letter / Tort Payments (2005-06 Section Letter).** In a letter dated March 6, 2006, the Department of Finance reported to the Joint Legislative Budget Committee (JBLC) that Caltrans has requested a shift of funding among programs of $24.8 million in order to pay greater than anticipated tort claims in 2005-06. The budget for tort claims has remained unchanged in recent years at $41.4 million. The Section 26.00 letter requests to shift funds, primarily from the Maintenance and Capital Outlay Support Programs, to fund the unanticipated 2005-06 tort expenditures of $24.8 million. Upon request, Caltrans provided a description of the program impacts from the tort shift (see appendix A at the back of this agenda). The historical tort budget funding and actual expenditures are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	$41.4	$65.1	$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06	41.4	66.7	25.3
Average	**$41.4**	**$52.5**	**$11.1**

Staff Comment: As is the case this year, Section 26.00 letters may involve significant budget changes. Section 26.00 changes are not generally heard in Budget Subcommittees, and as such do not receive the full legislative review provided for other budget changes. Since Caltrans has used the Section 26.00 letter process several times in the past six years to adjust the tort budget, the Subcommittee may want to consider a 2006-07 augmentation for tort expenditures or a permanent budget shift of funds from other programs into the tort budget.

Staff Recommendation: Keep the issue of 2006-07 tort funding open and direct Staff to continue discussions with the Administration to best forecast the 2006-07 expenditure need. Take no action on the Section 26.00 request (the request will be deemed approved by the Joint Legislative Budget Committee absent a JLBC notification to the contrary).

2. **Allocation of the 2005 Budget Act "Unallocated Reduction."** Last year the Administration requested, and the Legislature approved, a $50 million ongoing State Operations budget reduction for Caltrans. The reduction was unallocated; however, this year's Governor's Budget includes the allocation of these reductions across Caltrans programs. The purpose of the reduction was to generate savings through efficiencies that could then be used for capital projects. Caltrans has reported the reductions by program with a description of how the programs will achieve the savings (see appendix B at the back of this agenda).

   Staff Comment. Some of the efficiencies in the plan may take a few years to achieve and some of the reductions involve the deferral of equipment purchases which would not produce an ongoing savings. The Subcommittee may want to ask Caltrans if it will be able to achieve the efficiency goals in 2005-06 without affecting output. Additionally, the Subcommittee may want to request that Caltrans update the report for the Legislature in the fall, after the close of 2005-06, to indicate how the savings were ultimately achieved.

   Staff Recommendation: Approve the Administration's distribution of the 2005 Budget Act reductions. Request that Caltrans update the Committee this fall (no later than November 1, 2006) on how the 2005-06 budget reductions were actually achieved.

3. **Repayment of Transportation Loans**. The Administration proposes early repayment of $920.0 million of the $1.258 billion in Prop 42 funds borrowed by the General Fund in 2004-05. The allocation of this repayment is statutorily specified; however, the Administration proposes to amend statute to shift a portion of this early repayment from the Traffic Congestion Relief Program (TCRP) and the Public Transportation Account (PTA) to the State Transportation Improvement Program (STIP) and local streets and roads. After full repayment in 2007-08, the final allocation would be consistent with current law. The repayment of $920 million, under current statute and under the Governor's proposal, is as follows:

$920 Proposition 42 Loan Repayment ($ in millions)		
	Current Statute	**Governor's Proposal**
Traffic Congestion Relief Program	$678.0	$410.0
Local streets and roads	$96.8	$255.0
State Transportation Improvement Program (STIP)	$96.8	$255.0
Public Transportation Account for State Transit Assistance (STA)	$24.2	-
Public Transportation Account for STIP	$24.2	-
TOTALS	**$920.0**	**$920.0**

Staff Comment: The proposed repayment is associated with one of three outstanding transportation loans to the General Fund. The following table illustrates the three loans with historical and anticipated loan repayment dates.

Summary of Transportation Loans to the General Fund ($ in millions)					
Transportation Loans to the General Fund	**Loan Amount**	**Amount repaid to date**	**Repayment Proposed in 2006-07**	**Outstanding amount (after 2006-07) ***	**Current-law due date**
►Traffic Congestion Relief Fund loans (from 2001-02 & 2002-03)	$1,383,000	$183,000	$1,000,000	$200,000	none
►2003-04 Propositions 42 loan	868,000		0	868,000	June 30, 2009
►2004-05 Proposition 42 loan	1,258,000		920,000	338,000	June 30, 2008
Total	$3,509,000	$183,000	$1,920,000	$1,406,000	

* Interest is required, but not included in these calculations

Staff Comment (Continued): The Subcommittee should consider the following issues related to the Proposition 42 loan repayment:

- Is $920 million the appropriate amount for repayment in 2006-07?
- Does the Administration's prioritization of loan repayments reflect legislative priorities (i.e. trailer bill language to exclude the Public Transportation Account and State Transit Assistance from loan repayment in 2006-07)?
- Does the Legislature wish to statutorily specify repayment due dates and amounts in 2006-07, or leave that to the discretion of the Administration?

In addition to the discussion about Proposition 42 loan repayment, the Subcommittee may want to ask the Department of Finance to discuss the tribal gaming bonds and indicate if the Administration still feels the bonds can be issued in 2005-06. The Department of Finance should also be prepared to discuss whether the tribal gaming revenue already collected, can be used for transportation loan repayment (in advance of the bond issuance).

Staff Recommendation: Keep issue open for the May Revision. The Administration has historically revised the General Fund / Proposition 42 funding proposal with the May Revision, and more information on 2006-07 General Fund revenues will be available at that time.

4. **Trailer Bill Language.** The Administration requests the following trailer bill language, which is in addition to the language included in other agenda issues:

- Language to specify the interest repayment for loans repaid with tribal gaming assets.
- Language to remove the statutory due dates for the repayment of loans from the State Highway Account and the Public Transportation Account to the Traffic Congestion Relief Fund (Repayment of these loans will be delayed beyond the June 2007 and June 2008 due dates if tribal gaming bonds remain unsold because of litigation).
- Language to clarify legislative intent related to 2006-07 gasoline sales tax transfers.

Staff Recommendation: Keep all of these trailer bill requests open for further discussion to better understand the Administration's intent and to better understand the implications of the proposed changes. Note, the Administration's trailer bill "RNs" from the Legislative Council were first provided on March 22.

5. **2005 Ten-Year State Highway Operation and Protection Program (SHOPP) Plan.** The Administration submitted the 2005 SHOPP Plan to the Legislature on March 15, 2006 – over 10 months late. While Caltrans has made great improvements over the past year in delivering reports in a timely manner, it is unclear why this particular report was withheld for over 10 months. The lateness of the report prevented the Legislature from reviewing and commenting on the Plan prior to the California Transportation Commission's (CTC) adoption of the 2005 Fund Estimate (The State's five-year transportation expenditure plan).

   Background: Section 164.6 of the Streets and Highways Code requires Caltrans to produce a SHOPP Plan every two years – most recently in 2005. Statute required Caltrans to submit the SHOPP Plan to the CTC for review and comments by January 31, 2005; and to the Governor and the Legislature not later than May 1, 2005. Also, pursuant to statute, the SHOPP plan was built into the CTC's five-year "Fund Estimate," which was adopted September 29, 2005. Staff understands the legislative intent behind the statutory deadlines was to allow legislative review of the SHOPP Plan prior to the CTC's adoption of the Fund Estimate Plan.

   Staff Comment: The transmittal letter indicates that the release of the Plan was withheld while the Administration worked to develop a financial strategy that would address the funding needs identified in the Plan. However, the SHOPP Plan is statutorily tied to the Fund Estimate process, not the Governor's Budget proposals.

   The Subcommittee may want to ask the Administration to comment on whether it intends to honor the statutory due dates for the 2007 SHOPP Plan, or whether it would propose statutory change to adjust the report due date.

   Staff Recommendation: Informational – no action needed.

6. **Specialty Facilities Appropriation Item.** The Administration requests an appropriation for specialty facilities (such as equipment facilities, maintenance facilities, material labs, and traffic management centers) of $54.7 million. A separate Budget Act appropriation was added by the Legislature with last year's budget to track specialty facilities expenditures as distinct from capital expenditures on highways and roadsides. Last year's appropriation was $14.0 million; however, an appropriation level in the range of $50 million is consistent with the expenditure level built into both the 2003 and 2005 State Highway Operations and Protection Program plans.

   Detail: The major expenditures anticipated for 2006-07 are as follows:
   - $22.2 million to construct a new Traffic Management Center in District 8 (Inland Empire).
   - $16.2 million for new Maintenance Stations in Fort Bragg and Red Bluff.
   - $9.0 million for "Phase III" of the facility repair project for the Sacramento Transportation Lab.

   Staff Comment: The Administration added a provision to the item to indicate that the funds would be available for appropriation through 2008-09. The LAO indicates this is duplicative as Budget Control Section 1.80 already provides this authority.

   Staff Recommendation: Approve the funding and direct the staff to make any technical corrections necessary to delete duplicative language.

7. Non-Article XIX Funds – Transfer to the General Fund. The Administration requests the transfer of $9.3 million from the State Highway Account to the General Fund to provide General Fund relief. The funds proposed for transfer are not subject to the restrictions of Article XIX of the Constitution, nor are they subject to Federal Highway Administration control.

Detail: The Department provided the following table that details the revenue sources for the non-Article XIX revenue. Under Street and Highway Code Section 183.1, the revenue is transferred annually from the State Highway Account to the Public Transportation Account. The 2004-05 revenue (which determines the 2005-06 transfer to the Public Transportation Account) is high due to the sale of some high-priced Caltrans properties. The revenue available for the 2006-07 transfer is anticipated to be $51.5 million, with $9.3 million transferred to the General Fund, and $42.2 transferred to the PTA in accordance with Section 183.1. The budget bill notes that the transfer to the General Fund is intended to constitute a reimbursement for debt service payments related to past transportation general obligation bonds. Similar transfers to the General Fund were approved for 2003-04 and 2004-05, but no transfer was proposed or enacted for 2005-06.

SHA Section 183.1 Proceeds Transfer (Actuals)
($ in millions)

		2000/01	2001/02	2002/03	2003/04	2004/05	2005-06
141200	Sales of Documents	$0.962	$0.927	$0.679	$0.549	$0.254	
151200	Condemnation Deposits	4.216	3.091	1.750	$1.889	$1.141	
152200	Rental of State Property	42.097	38.836	40.581	$32.440	$36.719	
152300	Miscellaneous Revenue from Use of Property/Money	23.786	10.888	14.512	$18.423	$46.576	
161000	Escheat Revenue	0.300	0.345	0.323	$0.585	$0.629	
161400	Miscellaneous Revenue	11.892	5.113	2.549	$2.770	-$4.390	
	Total Section 183.1 Proceeds	$83.254	$59.200	$60.395	$56.656	$80.930	
Transfer to:							
	T00046 Public Transportation Account per Streets and Highways Code 183.1 (following year)		$83.254	$59.200	$60.395	$56.656	$80.930

Staff Recommendation: Keep this issue open for the May Revision hearing – at that time the Subcommittee will be better able to assess the condition of the General Fund in 2006-07.

8. **Maintenance Funding.** The Administration requests a permanent increase of $105.3 million for highway infrastructure preservation. The Department's *2005 Five-Year Maintenance Plan* described the existing maintenance backlog and proposed to augment the State Highway Operation and Protection Program (SHOPP) by $105.3 million. This augmentation is not mentioned in the budget documents; however, Caltrans indicates the increase was built into the SHOPP appropriation. Historically, this preservation work would be budgeted and staffed in the Maintenance Program. Under the Administration's proposal, the work would be budgeted and staffed in the Capital Outlay Support Program. As such, no new positions are budgeted for this workload – instead staffing changes would be included in the May Revision Finance Letter for the zero-based Capital Outlay Support staffing.

   Staff Comment: The proposed budget represents both an augmentation and workload shift, from the Maintenance Program to the SHOPP (Capital Outlay Support Program).

   Caltrans indicates the **advantages** of the shift are: (1) increased expenditure flexibility for the Department and the California Transportation Commission (CTC); and (2) an improved workload match for Engineers in the Capital Outlay Program versus the Maintenance Program.

   Staff sees the **disadvantages** of the shift are: (1) reduced legislative oversight (Budget Change Proposals are submitted for Maintenance Program augmentations, but not for SHOPP); (2) additional time for legislative position review (new positions for the Maintenance Program are generally detailed with the January 10 Governor's budget, while Capital Outlay Support positions are detailed in the May Revision); and (3) budget consistency (since the shifted "preservation" workload has historically been included in the Maintenance Program, year-over-year budget comparisons will be less relevant).

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the Legislature restore budget bill language which the Administration omitted that segregates funding for major pavement maintenance contracts so the funding cannot be redirected for another purpose:

   Of the funds appropriated in this item, $81 million is for major maintenance contracts for the preservation of highway pavement and shall not be used to supplant any other funding that would have been used for major pavement maintenance.

   Staff Recommendation: Staff recommends the augmentation be approved; but that the "maintenance" workload remain in the Maintenance Program, and accordingly, that the Subcommittee reduce the SHOPP appropriation by $105.3 million and increase the Maintenance Appropriation by $105.3 million. Additionally, staff recommends that the LAO budget bill language be adopted.

9. **Environmental Enhancement and Mitigation (EEM) Program.** The Administration is proposing no funding for the EEM program in 2006-07. The EEM Program funds grants for projects such as hiking and biking trails, landscaping, and the acquisition of park and wildlife areas.

Background: The EEM Program was initiated by Chapter 106, Statutes of 1989, which provided for annual transfers of $10 million from the State Highway Account (SHA) to the EEM Fund for a ten-year period. At the expiration of the ten-year period, the Legislature decided to continue funding at the $10 million level and current statute cites the intent of the Legislature to allocate $10 million annually to the EEM Program. Due to declining SHA balances, no transfers were made from the SHA to the EEM Fund in 2003-04 and 2004-05. However, there was an existing balance in the EEM Fund of about $10 million, and appropriations were included in the 2003-04 and 2004-05 Budget Acts to allow for EEM Program grants of $5 million in each year.

The Legislature augmented the Governor's proposed 2005-06 budget by $10 million (State Highway Account) for EEM; however, the full amount was vetoed by the Governor. The Governor's veto message indicated, "This augmentation is not the best use of scarce transportation resources."

Staff Comment: EEM funding has also been discussed for inclusion in the infrastructure bonds.

Staff Recommendation: Restore EEM funding at the $10 million level. Specifically, add a transfer item of $10 million from the State Highway Account to the EEM Fund and add a $10 million EEM Fund appropriation.

10. Transportation Permits Management System Reappropriation (BCP #17). The Administration requests a reappropriation of up to $5.25 million (State Highway Account) to extend the liquidation period of funds approved to implement the Transportation Permits Management System (TPMS). The TPMS is the automated system which will approve routes and issues permits for oversized loads.

Background / Detail: TPMS is designed to increase highway safety by reducing human error in the oversized-load permit generating process. Past errors in the issuance of oversized permits have contributed to bridge hits and other accidents. This project was the subject of a special Senate Budget Subcommittee #4 oversight hearing in February 2005. Last year, Caltrans expected to have the project fully implemented by the end of 2005.

Staff Comment: Flaws were discovered in the system the vender delivered last year. In February 2006, the project team finalized all requirements; the list of defects; change orders; and incorporated the required levels of effort into the project schedule. Additionally, Caltrans and the vender are negotiating a contract amendment that will place financial penalties on the vendor if the system is not acceptable by September 30, 2006. Staff understands the vendor is continuing to work to fix the problems and that Caltrans now hopes to have the system fully in operation by November 29, 2006.

Staff Recommendation: Approve the reappropriation request.

Vote:

11. Integrated Financial Management System (BCP #6). The Administration requests multiyear funding of $20.8 million ($3.1 million in 2006-07 – all State Highway Account) and 12 limited-term positions for the Integrated Financial Management System (IFMS) information technology (IT) project. This project would replace the 22-year old legacy system known as Transportation Reporting and Accounting Management System (TRAMS). The BCP and Feasibility Study Report (FSR) note annual savings, upon completion of the project, of 35 positions and $6.0 million. It should be noted that the post-implementation budgets are not adjusted for this savings with the approval of this BCP. The Administration would have to come forward with a "negative" BCP in 2010-11 to reduce funding in the range of $6.0 million – otherwise that savings will be retained in the budget and available for expenditure for other purposes.

Background / Detail: The IFMS would establish the enterprise infrastructure to support the Department's new financial management system and implements the applications supporting core financial system processes, including general accounting and budget management processes. IFMS would provide a common platform that could be used for future integration projects (if approved in future budgets) such as a procurement and inventory system. This system was first proposed in 2002-03; however, funding was denied by the Legislature while Caltrans completed the Caltrans Integration Study (CIS). The purpose of CIS was to produce a Caltrans-wide enterprise information technology plan such that future IT projects could be effectively integrated at a lower cost. The risk levels by category for this project are identified in the FSR in the medium to high range.

Caltrans notes that the current system has over 100 financial subsystems feeding into and out of TRAMS. Since financial data are not stored in a single source, reporting to external and internal stakeholders is labor intensive and has resulted in Caltrans being unable to accurately report expenditures against a particular project. Caltrans has been unable to meet the reporting requirements of AB 1012 (Chapter 783, Statutes of 1999), which include transportation project financial information sharing with local entities.

The Feasibility Study Report indicates six primary business problems addressed by this proposal:

- Limited Capability to Ensure Accountability for Federal and State Funds
- Inability to Track Financial Performance Outcomes/Measures
- Limited Visibility into Costs and Impacts.
- Inefficient Financial System Business Processes.
- High Financial Management IT Infrastructure Costs.
- Inability to Access Timely Financial Information.

Staff Recommendation: Approve the request.

Vote:

12. **Construction Management System (BCP #7).** The Administration requests multiyear funding of $21.0 million ($950,000 in 2006-07 – all State Highway Account) and 22 limited-term positions for the Construction Management System (CMS) information technology (IT) project. This project would replace the 30-year-old legacy system known as Contract Administration System (CAS). The Feasibility Study Report (FSR) notes in the fiscal tables annual State Operations savings, upon completion of the project, of $136,000 (and no change in positions). However, the BCP notes post-implementation annual savings of $18.8 million in Capital Outlay. If the savings is realized, the savings would primarily be available for additional project expenditures, as opposed to a reduction in State Operations costs.

Background / Detail: The proposed CMS would be implemented through the purchase and transfer of an existing system from the American Association of State Highway and Transportation Officials (AASHTO). The system would then be modified to meet the Caltrans-specific construction requirements and departmental technical standards. The risk levels, by category for this project, are identified in the FSR in the low to medium range.

The problems with the current system are identified as follows:

- The current system (CAS) is unable to track expenditures on a project by date, resulting in overpayments and contract overruns.
- CAS is unable to track subcontractors, allowing missed payments to subcontractors.
- CAS is unable to view or track all project expenditures.
- Manual calculations made by the Resident Engineer are subject to variation in method and accuracy.

The $18.8 million in annual savings is primarily related to the following:

- Reduction in Federal Highway Administration (FHWA) Federal-Aid Ineligibility Notices. These are refunds of federal funds when the FHWA audits project documents and finds Caltrans is out of compliance with federal regulations – approximately $5 million in annual savings.
- Reduction in claims payments to contractors. The FSR indicates CMS would allow the Resident Engineer to better assess whether a claim has merit – approximately $6.7 million in annual savings.
- Reduction in arbitration suit payments. CMS would allow the Department to better defend claims in arbitration and reduce settlement payments by approximately $3.2 million.

Staff Recommendation: Approve the request.

Vote:

13. **Dismantle the Internal Service Fund (BCP #16).** The Administration requests approval of trailer bill legislation to dismantle the Internal Service Fund (ISF), known as the Equipment Service Fund (ESF). The Equipment Program would continue as a distributed program. The ESF never produced the anticipated savings and dismantling the ISF will also eliminate the rental rate development process and the extensive fiscal and legal accounting requirements associated with the ISF.

    Background: The ISF was established in 1997-98 for the cost recovery of the Department's mobile fleet equipment and services. The vision was for the Division of Equipment to become a full rental agency operating as a private business model with the ability to expand or contract to meet customer's needs, serve other tax-supported entities and to provide cost measures for managing the fleet. Caltrans has been unable to either reduce overall usage by better distributing the fleet between programs or to rent idle equipment to other public entities as originally intended when the ESF was created.

    In the 2005 Budget Act, the Administration and the Legislature agreed to budget bill language and funding for the Office of State Audits and Evaluations (within the Department of Finance) to evaluate the appropriateness of operating the Equipment Service Program as an internal service fund. A report to the Legislature was due from the Department of Finance on January 10, 2006. This report was submitted on March 24, 2006.

    Staff Recommendation: Keep open – the report from the Office of State Audits and Evaluations was not provided until March 24, 2006, and Staff has not had sufficient time to review, ask follow-up questions, etc.

14. Owner Controlled Insurance Program (BCP #9). The Administration requests an augmentation of $1.4 million (State Highway Account) and 1.0 position to implement the statewide Owner Controlled Insurance Program (OCIP) as a pilot program with 82 projects. With the OCIP, the Department, as the owner of the highway, would purchase major insurance coverage for its construction projects. Under the current process, Caltrans pays insurance costs indirectly through inclusion of the costs in the contractors' bids. The funding of $1.4 million would only cover the cost of hiring a consultant – the cost to purchase the insurance could exceed $120 million (according to the Caltrans). Caltrans believes the $120 million plus in extra insurance costs would be more than offset through lower bids – the three year savings is estimated in the range of $40 million to $65 million.

LAO Recommendations: In the *Analysis of the 2006-07 Budget Bill*, the LAO finds that "the cost savings that could be realized through an OCIP are much more uncertain than Caltrans indicates." Accordingly, the LAO recommends a smaller pilot and the following budget bill language:

Up to $1.4 million appropriated in this item is available for support of Caltrans' Owner Controlled Insurance Program to administer insurance coverage for contractors on up to 15 projects.

Additionally the LAO recommends the Legislature adopt the following supplemental report language:

By April 1 of 2007, 2008, and 2009, respectively, Caltrans shall report to the Joint Legislative Budget Committee and the policy committees on transportation on the following concerning the Owner Controlled Insurance Program (OCIP):

(1) The type and value of projects included in the pilot.

(2) The amount that Caltrans would have paid contractors for insurance coverage in the absence of an OCIP, as identified in contractors' bid statements.

(3) The amount the department paid in insurance premiums, deductibles, program administration, and any other OCIP-related costs incurred during the pilot.

(4) The estimated net cost or benefit of implementing the pilot.

(5) An assessment of the projects that were best suited for inclusion in an OCIP and the projects that were least well suited, in terms of cost effectiveness.

Staff Recommendation: Keep this issue open to further examine the savings assumptions.

Vote:

Appendix A

Program Impacts of the $25 million Redirection for Tort Payments

Program	Proposed Reduction	Proposed Reduction Effects/Impacts
Capital Outlay Support	$10,209,446 in Personal Services (PS)	COS is not currently able to fill all of its positions regardless of extensive recruiting efforts.
Local Assistance Support	$377,145 in PS	Local Assistance is not currently able to fill all of its positions as timely as expected.
Program Development	$7,680 in PS $247,103 in Operating Expenses (OE)	Program Development will delay lower priority research contracts or split finance contracts where possible.
Legal	$228,557 in OE	Legal will delay paying invoices for expert witnesses, court reporters, etc.
Traffic Operations	$1,589,125 in OE	Traffic Operations will reduce Transportation Management Congestion facility and equipment support contracts; delay lowest priority ramp metering projects; and delay Planned Lane Closure implementation of lowest priority projects.
Maintenance	$9,610,398 in OE	Maintenance will delay material orders that are not for immediate use and that do not affect project delivery. Delay replacement of communication equipment. Split-finance some contracts to reduce costs in the current year. Pavement contracts will not be affected.
Mass Transportation	$1,143 in OE	Mass Transportation will delay office equipment replacement purchases.
Rail	$2,362 in OE	Rail will delay lower priority training contracts.
Planning	$270,822 in OE	Planning will delay environmental contracts and reduce Project Initiation Documents operating expenses by reducing non-critical site visits.
Administration	$2,456,189 in OE	Admin Program will defer lower priority “general expense” purchases to 2006-07. In addition, certain special repair and maintenance projects for our facilities (statewide) will be deferred to the subsequent fiscal year.

Appendix B

Program Impacts of the $50 million Efficiency Reduction

The Department undertook a widespread effort to identify true on-going efficiencies, not across-the-board reductions or reduced service in high priority activities. Program and district managers were challenged to find opportunities to streamline processes, procedures and organizational structures, eliminate low priority work, and reduce overhead. Managers were further encouraged to find creative ways to accomplish more with current resources and look for opportunities to generate revenues and avoid future costs.

Program	Reduction	Reduction Effects	Program Impacts
Aeronautics	$.004 million	Reduce Operating Expense & Equipment (OE & E) budget.	Reduce costs for electronic data processing services acquired through Teale by eliminating unnecessary accounts and continuing to identify obsolete services.
Capital Outlay Support	$22.471 million and 99.0 Personnel Years (PYs)	Reduce district project delivery resources and Headquarters (HQ) staffing by improving the support to capital ratio, and continuously looking for process improvements that lead towards efficiencies.	The Capital Program is strategically developing tasks to reduce the support cost of the program. While these tasks are projected to be achieved over multiple years, incremental efficiencies will be rolled into our project support budgets as they occur. The ultimate success of these efforts is largely dependent on a stable fund source for transportation projects. Unstable funding with years of inadequate sources for transportation projects with intermittent spikes does not lend itself to efficiencies in delivering transportation improvements. The Program targeted the following areas and specific dollar amounts for efficiencies this fiscal year: 1. Reduced $10M in operating expense to become more efficient in support to capital ratio. This includes goals of reduced efforts to deliver projects and process improvements. 2. Reduced $8M and 99 PY's in the Traffic Congestion Relief Fund (TCRF) program. The TCRF dollars were

Capital Outlay Support (cont.)			primarily programmed to fund the Capital component of projects. Very little TCRF is programmed for Caltrans support. The support for these projects comes primarily from the State Transportation Improvement Projects (STIP). Therefore, the Department received more TCRF funding for support than we had programmed authority for in FY 05/06. 3. Reduced $2M in Category 12 - consultant and professional services contracts - the savings came by reducing our level of service contracts by $2M. 4. Reduced $2.5M - this is a result in IT efficiencies.
Local Assistance Support	$.101 million	Consolidate oversight and supervisory responsibilities to improve supervisory to staff ratio. Reclass lead level positions to staff level.	The program has implemented its efficiency savings by merging two offices into one in Headquarters, reclassing supervisory and lead positions by reprioritizing and distributing workload, and deferring the replacement of aging office equipment.
Program Development	$4.549 million and 1.0 PY	Reduced $4.279 million in research projects and $270,000 in training and planning budget.	Convert Geographic Information Systems (GIS) training from sole source consultant, Environmental Systems Research Institute (ESRI), to in-house training. Provide ESRI training where needed for advanced or power users. In-house trainers/ trainees travel to districts/regions around the State to reduce travel for the trainer and to provide most training at the user's district. Provide training courses on-line, via competitive bid contract, ESRI sole source contract, and in-house both in Sacramento and in the Districts to provide GIS skills to coordinators and users. The outcome is improved access to training that meets the differing types of training required at a lower cost.

Legal	$.346 million	Utilize less expensive and better internet and technology.	Legal has migrated much of its legal research materials from paper to electronic media and renegotiated its contracts and future print reductions. Use of a phone-in process in lieu of making appearances has saved travel expenses. The rest of the savings have been achieved through delaying purchase of contemporary trial presentation software and hardware.
Traffic Operations	$.747 million	Streamline office equipment purchases.	Prioritized office equipment purchases to address more critical needs and delayed lower priority purchases. Improved process for equipment purchases resulting in increased staff time to devote to higher priority projects.
Maintenance	$15.549 million	Utility efficiency, reduce warehouse inventory and budget, improve contract management by timely invoice payment and eliminate encumbrance in excess of final need.	Utility efficiency achieved by implementing energy efficient strategies (i.e., retrofitting signals and ramp meters with Light Emitting Diode (LED) technology. Reduction of warehouse budget achieved by eliminating unnecessary items, improved forecasting and “just-in-time” procurement methods. Reduction has forced Districts to expend resources from their budgets by redirecting from lower priority work; more lead time is required for purchasing, longer turn around on receiving materials. Improved contract management achieved by providing training to reinforce encumbrance management and reducing the amount encumbered in on call service contracts. Impacts are to lower priority work.
Mass Transportation	$.336 million and 1.0 PY	Reduce OE & E budget, reduce temporary help and overtime, improve manager to staff ratio.	Reduced staff available for Proposition 116 activities. Reclassified two Supervisory positions to the Associate level to improve the Management and Supervisor ratio. Hired an intermittent office assistant

			instead of a permanent word processor, and eliminated all overtime. Travel and training requests have been prioritized and management approves these requests at mandated levels only.
Rail	$.521 million	Streamline organizational structure and improve efficiency in purchasing.	Reduced the number of Special Studies required for management of intercity rail program. Reduced outreach efforts to Local Agencies needed to implement capital projects. Reduced efforts to develop new project proposals for intercity rail capital projects.
Planning	$.727 million	Federalize current state-funded positions and reduce contract management costs.	State Planning and Research work program was revised to gain approval for activities to be federally funded. HQ and district team met to streamline the allocation process and district expectation agreements. The redirected PYs saved were used to staff new and higher priority workload.
Administration	$4.649 million and 16.1 PYs	Reduce communication costs and improve management costs, streamline accounting efforts, absorb workload and return resources to Traffic Congestion Relief Fund, and improve manager to staff ratio.	Consolidating staff into existing office facilities and eliminating leases; eliminating unnecessary telephone lines and reducing cell phone usage; reducing supervisory positions by reprioritizing and redistributing workload to existing staff; reducing hardcopy reproduction of manuals and increasing electronic distribution; eliminating TCRF funding source from Administration and reprioritizing and redistributing workload to existing Accounting and Human Resource staff; eliminating rental of unused equipment at the warehouse.
All Programs – Information Technology component	Incorporated into Program reductions above.		Reduce costs for electronic data processing (EDP) services acquired through Teale by eliminating unnecessary TS1 accounts and continuing to identify obsolete services. Centralize IT procurements to maximize savings, consolidate servers and standardize help desk tools. No noticeable impact to the clients.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, April 6, 2005
9:30 or Upon Adjournment of Session
Room 112

AGENDA PART A

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Proposed for Vote-Only

0280 COMMISSION ON JUDICIAL PERFORMANCE

The Commission on Judicial Performance is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to article VI, section 18 of the California Constitution. Its jurisdiction includes all active judges and justices of California's superior courts, Courts of Appeal, and Supreme Court, and former judges for conduct prior to retirement or resignation. The Commission also shares authority with local courts for the oversight of court commissioners and referees. In addition to disciplinary functions, the Commission is responsible for handling judges' applications for disability retirement.

The Commission is composed of eleven members: three judges appointed by the Supreme Court, two attorneys appointed by the Governor, and six lay citizens, two appointed by the Governor, two appointed by the Senate Rules Committee and two appointed by the Speaker of the Assembly. Members are appointed to four-year terms and may serve two terms; Commission members do not receive a salary.

Budget Request. The budget proposes total expenditures of $4.1 million from the General Fund, which is the same as anticipated expenditures in the current year. The commission has a total of 27 positions.

0390 JUDGES' RETIREMENT SYSTEM

The Judges' Retirement System (JRS I) provides retirement benefit funding for judges of the Supreme Court, Courts of Appeal, Superior and Municipal Courts. Retirement benefits are based on age, years of service, compensation of active judges, and eligibility as determined by specific sections of the Judge's Retirement Law. The JRS I is funded by the Judge's Retirement Fund, which receives revenue from the General Fund and certain filing fees, as well as employee contributions equal to 8 percent of the judges' salaries.

Chapter 879 of the Statutes of 1994 established the Judges' Retirement System II (JRS II). Unlike its predecessor, JRS II is designed to be fully funded from employer and employee contributions on a prospective basis. The major differences in JRS II include increased retirement age and a cap of 3 percent annually for COLAs for retirement benefits. All judges elevated to the bench on or after November 9, 1994, are required to participate in JRS II. There are currently 1,610 authorized judges and justices in the State of California.

Budget Request. The budget proposes total expenditures of $299.6 million for the Judges' Retirement System.

8140 STATE PUBLIC DEFENDER

The Office of the State Public Defender (OSPD) was established in 1976 to provide indigent representation. Chapter 869, Statutes of 1997, revised the mission of the OSPD. The OSPD is now required to concentrate on post-conviction proceedings following a judgment of death. Specifically, the OSPD is limited to representing capital appellants only for the purpose of the direct appeal for all cases to which the OSPD was appointed after January 1, 1998.

Budget Request. The budget proposes $11.3 million from the General Fund, which is an increase of $70,000 from anticipated current-year expenditures, related to a price increase. The budget proposes 82 positions, the same number as in the current year. The administration did not submit any Budget Change Proposals for this item.

8180 PAYMENTS TO COUNTIES FOR THE COSTS OF HOMICIDE TRIALS

It is state policy that (1) the uniform administration of justice throughout the state is a matter of statewide interest, (2) that the prosecution of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the county for such purposes, and (3) that the cost of homicide trials should not seriously impair the finances of a county. Government Code Sections 15200 through 15204 implements these policies by allowing a county to apply to the Controller for reimbursement of specified costs of homicide trials and hearings. The reimbursement formulas vary by population of the county and provide for reimbursement of a specified percentage of one percent of the full value of property assessed within the county.

Budget Request. The budget proposes total expenditures of $3.5 million from the General Fund. This is a decrease of $805,000 from the current year, based on the estimated funding needed for 2006-07. Expenditures for 2004-05 totaled $3.1 million.

8830 CALIFORNIA LAW REVISION COMMISSION

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution. The Commission consists of seven gubernatorial appointees, one Senator, one Assembly Member, and the Legislative Counsel.

Budget Request: The budget proposes expenditures of $706,000 ($691,000 General Fund and $15,000 in reimbursement authority) and 5.5 positions. This amount is $3,000 greater than estimated expenditures in the current year.

8840 COMMISSION ON UNIFORM STATE LAWS

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of twelve members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request. The budget proposes expenditures of $149,000 from the General Fund, which is the same as anticipated expenditures in the current year.

9670 GOVERNMENT CLAIMS BOARD AND SETTLEMENTS AND JUDGMENTS BY THE DEPARTMENT OF JUSTICE

The budget for this item reflects statewide expenditures for equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and settlements and judgments against the state sponsored by the Department of Justice. Payment of these claims is provided to claimants through the passage of special legislation.

Budget Request. Similar to the last several years, the budget does not propose any General Fund appropriation for this purpose. Claims under $70,000 from General Fund agencies would be paid from the base budget of the affected agency. Special Fund departments (such as the Department of Transportation) would also have the authority under this item to pay claims up to $70,000 with DOF approval. To enable these departments to continue to pay special fund claims pursuant to this authority, the DOF is proposing to leave Item 9670 in the Budget Bill, with the provisional language addressing special funds, minus the General Fund appropriation.

Staff Comments. The proposed language is identical to the language that was approved by the Legislature for the past several years.

CONTROL SECTION 5.25 – PAYMENTS FOR LITIGATION

Control Section 5.25 provides that payments for any attorney fee claims, settlements, or judgments arising from actions in state court against a state agency or officer shall be paid from appropriations in the Budget Act that support the affected agency.

Staff Comments. The proposed language is identical to the language approved in last year.

Staff Recommendation on Proposed Vote-Only Agencies. No issues have been raised with these agencies. Staff recommends approval as budgeted for the proposed consent / vote-only agencies.

Action on the consent / vote-only agencies.

Departmental Budgets Proposed for Discussion

0250 Judicial Branch

Proposed Budget. The Governor's budget proposes a total of $3.4 billion ($2 billion General Fund and $1.4 billion other funds) for the Judicial Branch, an increase of $139.7 million ($224.1 million General Fund) or 4.3 percent above anticipated current-year expenditures.

Of the total amount, the budget proposes expenditures of $371 million ($317.7 million General Fund) for items related to the state judiciary. The state judiciary items include the Supreme Court ($41.6 million), the Courts of Appeal ($182.1 million), the Judicial Council – which includes the Administrative Office of the Courts (AOC) ($101.9 million), the Judicial Branch Facility Program ($32.6 million), and the California Habeas Corpus Resource Center ($12.9 million). The proposed amount for the state judiciary is a decrease of $3.4 million below estimated expenditures in the current year. The reduction is due primarily to a change in the way that reimbursements from the trial courts are reflected. Previously the budget had shown about $14 million in reimbursements in the AOC budget from trial courts for services provided statewide for the trial courts. Now that the entire Judicial Branch is in one budget item, the Administration has eliminated the reimbursements and proposed budget bill language that would allow for the transfer of funds from the trial courts to the AOC, upon the approval of the director of the AOC, for recovery of the costs of administrative services provided to the courts.

The proposed total budget for the Trial Court Funding item is $3 billion ($1.7 billion General Fund and $1.4 billion other funds). This amount is an increase of $143 million, or 4.9 percent, above anticipated expenditures in the current year.

Judicial Branch – Program Requirements

	Expenditures *(dollars in thousands)*				**Percent**
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**Change**
Supreme Court	$39,408	$40,837	$41,571	$734	1.8%
Courts of Appeal	166,167	178,072	182,117	4,045	2.3%
Judicial Council	175,981	110,914	101,902	-9,012	-8.1%
Judicial Branch Facility Program	0	33,189	32,552	-637	1.9%
Habeas Corpus Resource Center	10,063	11,380	12,872	1,492	13.1%
Subtotal, Judiciary	*$391,619*	*$374,392*	*$371,014*	*-$3,378*	*-0.9%*
Support for the Operations of Trial Courts	$2,071,522	$2,476,722	$2,601,337	$124,615	5.0%
Salaries of Superior Court Judges	225,575	241,626	252,602	10,976	4.5%
Assigned Judges	21,105	20,956	21,908	$952	4.5%
Court Interpreters	67,688	82,731	86,126	$3,395	4.1%
Grants	-	67,802	70,895	3,093	4.6%
Subtotal, State Trial Court Funding	*$2,385,890*	*$2,889,837*	*$3,032,868*	*$143,031*	*4.9%*
Totals, Programs	**$2,777,509**	**$3,264,229**	**$3,403,882**	**$139,653**	**4.3%**
Authorized Positions	**1,539.3**	**1,866.1**	**1,889.2**	**23.1**	**1.2%**

Proposed Vote-Only Issues

A. Support for the New Fifth Appellate District Courthouse

Budget Request. The budget proposes a one-time increase in appropriation authority from the Appellate Court Trust Fund of $1.3 million and an ongoing General Fund augmentation of $70,000 for support of the new Fifth Appellate District Courthouse in Fresno. The funding would provide for non-capital furniture, fixtures, equipment, moving costs, and on going maintenance costs related to the new courthouse.

B. Judicial Branch Information Technology Support and Maintenance

Budget Request. The budget proposes an augmentation of $3.3 million General Fund for increased information technology costs supporting the AOC, Supreme Courts, and the Courts of Appeal. The proposal requests additional resources for application development and systems infrastructure and includes a total of 17 new positions (9 in 2006-07 and 8 in 2007-08).

C. Habeas Corpus Resource Center Supervisory Infrastructure

Budget Request. The budget proposes an increase of $114,000 General Fund for the establishment of one Supervising Administrative Coordinator position to supervise administrative and clerical support staff.

D. Habeas Corpus Resource Center (HCRC) Case Team Staffing

Budget Request. The budget proposes $1.2 million and 12 positions to create four new case teams for the capital habeas corpus appointments form the California Supreme Court. The new teams will allow the HCRC to take on more capital habeas cases. As of July 2005, there were 272 inmates on death row who had not been appointed habeas counsel. The NCRC indicates that appointments are currently being made in cases with a judgment of death in 2000 and that the backlog of cases awaiting appointment for habeas counsel is growing.

E. Trial Court Security Baseline Funding.

Budget Request. The budget proposes $18.7 million General Fund to provide an additional 97 entrance screening stations in superior court facilities, and to establish a five year replacement cycle for new and existing entrance screening equipment. For 2006-07, the proposal includes $13.5 million in ongoing funding to provide sheriff staff for the new screening stations and one-time funding of $2.9 million for the new screening equipment. Ongoing funding of $2.3 million would provide for the establishment of a five-year replacement cycle for the equipment.

F. Plumas and Sierra Counties New Courthouse.

Budget Request. The budget proposes $481,000 from the State Court Facilities Construction Fund for land acquisition and preliminary plans for a new Portola/Loyalton courthouse.

G. Finance Letter: Court Facilities Trust Fund Adjustment.

Finance Letter Request. This Finance Letter proposes a permanent augmentation of $372,000 from the Court Facilities Trust Fund for on-going operations and maintenance of trial court facilities transferred to the state. The Judicial Council recently completed transfer of facilities from Riverside County and San Joaquin County.

Staff Recommendation. No issues have been raised regarding these issues. Staff recommends approval as budgeted for the vote-only issues.

Action.

Discussion Issues

1. Antioch Courthouse

Budget Request. The budget proposes $2 million from the State Court Facilities Construction Fund to fund working drawings for a new trial court facility in Antioch to replace the Pittsburg facility.

Concerns Raised by the Analyst. The LAO notes that the new Antioch facility would have four courtrooms, but based on their review, the proposed facility will not provide adequate space to accommodate even the current filings of the Pittsburg court.

Analyst's Recommendation. Based on current workload and recent growth in filings, the proposed Antioch courthouse would be over capacity and unable to accommodate its filings workload by the time it is complete in 2009. In order to avoid building a court facility that is too small to accommodate all the filings when construction is complete, the LAO withholds recommendation on the new Antioch courthouse until the department submits a revised proposal that provides adequate courtrooms for the workload that court is expected to handle in 2009.

Staff Recommendation. The AOC has indicated that it is reviewing the proposal and anticipates submitting a revised proposal later this spring. Staff recommends holding the issue open pending a revised proposal.

Action.

2. Contra Costa-Pittsburg Trial Court Facility

Budget Request. The budget proposes funding for two trial court facilities in 2006-07, including a new Antioch courthouse in Contra Costa County and a joint-use Plumas/Sierra Counties courthouse. However, neither county has transferred the existing courthouses to the state. The Judicial Council estimates that transfers will take place by late spring 2006.

Analyst's Concerns. The LAO indicates that in order to encourage the speedy transfer of these court facilities, funding for the new courthouses should be available only upon the transfer of old trial court facilities. Currently, the budget bill includes language requiring the transfer of the Plumas County Portola trial court facility prior to the release of funds.

Analyst's Recommendation. The LAO believes that the same language as the Plumas/Sierra courthouse should be applied to the Antioch courthouse. Accordingly, the LAO recommends the adoption of the following budget bill language in Budget Item 0250-301-3037:

> Notwithstanding any other provision of the law, County of Contra Costa shall transfer responsibility, or responsibility and title, for the Pittsburg Court facility to the state prior to the release of the funds identified in Schedule (1).

Staff Recommendation. Staff recommends adoption of the LAO proposed budget bill language.

Action.

3. New Judgeships and Conversion of Subordinate Judgeships.

Budget Request. The proposed budget includes $5.5 million to support facilities, staff, salaries, and benefits for up to 150 new judgeships phased in over a three-year period beginning in April 2007. This level of funding assumes one month of expenditures in the budget year for 50 judgeships. The ongoing cost of 50 judges is $35.8 million and the ongoing cost of 150 judges is $107.3 million. The expenditure of these funds is restricted by budget bill language until legislation authorizing new judgeships is enacted. This proposal also supports the conversion of up to 161 judicial officers to judgeships, as the positions become vacant, funded from within existing resources.

Staff Comments. The proposal includes funding for the salary of the judgeship, as well as for support staff of 6.1 staff per judge. The Subcommittee may wish to ask the Judicial Council about potential reporting requirements for the filling of the judgeships and the support staff positions and the use of the funds.

Staff Recommendation. Staff recommends holding this item open at this time.

Action.

4. Trial Court Technology Baseline Funding.

Budget Request. The budget proposes an on-going General Fund augmentation of $12.3 million for development and implementation of information technology systems to the trial courts.

Concerns Raised by the LAO. The LAO indicates that although the implementation of new software is important in order to replace the administrative role previously played by the counties and to improve the accountability of trial courts, the request does not provide any detail on how this funding will be used. In particular, the LAO believes that the proposal does not specify the amount of funding that will be designated for each individual project, nor does it identify specific progress that will be made on each project in the budget year. More importantly, the AOC has not provided information to demonstrate that these trial court programs require an augmentation beyond the $105 million State Appropriations Limit (SAL) adjustment already included in the budget to fund the cost of inflation and growth in trial court operations.

Background. In conjunction with becoming a state-funded entity after enactment of the Trial Court Funding Act of 1997, there has been a significant effort to provide statewide information systems for the trial courts. Because counties are no longer required to provide administrative services or information technology support to the courts, the courts must have these services available internally. The AOC has developed several information management systems, and has begun to transition the courts to these systems. There are 15 programs currently being developed and implemented for the trial court system. A few major programs are listed below.

Court Accounting and Reporting System (CARS) – A statewide financial accounting system for the courts. Currently 20 of 58 counties have fully implemented CARS.
California Case Management System – A statewide system for tracking court cases, scheduled to be implemented statewide by the 2009-10 fiscal year.
Courts Human Resources Information System (CHRIS) – A statewide trial court human resources information system. The CHRIS is currently anticipated to be utilized by all 58 trial courts by the 2009-10 fiscal year.

The LAO indicates that in 2005-06, the trial courts will spend an estimated $63 million on project implementation and $73 million for ongoing maintenance of these systems. Expenses have increased significantly as new projects have been established. The AOC indicates that a total of $178.1 million will be needed in the budget year to fund these projects.

Analyst's Recommendation. The LAO recommends rejection of the request for $12.3 million in information systems funding for the trial courts. The LAO indicates that the proposal contains no detail on how the funding will be used and does not provide sufficient information to demonstrate that funding is needed above and beyond the $105 million proposed for the trial courts through the State Appropriations Limit adjustment.

Staff Recommendation. Staff is reviewing additional information that has been provided on the court technology request. Staff recommends holding this issue open at this time.

Action.

4. Provisional Language in Budget Items 0250-001-0001 and 0250-101-0001.
Provision 3 of Budget Item 0250-001-0001 and Provision 1 of Budget Item 0250-101-0001 provide the ability for the Controller to transfer $5 million between these items at the request of the AOC to cover short-term cash flow issues. The authority has not been needed, and the AOC does not object to deleting the language.

Staff Recommendation. Staff recommends deleting Provision 3 of Budget Item 0250-001-0001 and Provision 1 of 0250-101-0001.

Action.

5. Finance Letter. Correct Error in Program Schedule Regarding Administrative Services Reimbursement.
Finance Letter Request. This Finance Letter proposes to make a technical adjustment to Budget Item 0250-001-0932, by replacing program 45.10 – Support for Operations of the Trial Courts with program 30 – Judicial Council, in order to allow the AOC to recover costs associated with providing services to the trial courts. The proposed changes are reflected below:

0250-001-0932 – For support of the Judicial Branch, payable
From the Trial Court Trust Fund………………………………. $1,000
Schedule:

(1)	35 – Judicial Branch Facility Program...	0	
~~(2)~~	~~45.10 – Support for the Operation of the Trial Courts………………………..~~	~~1,000~~	
(2)	*30 – Judicial Council.…………………*	*1,000*	

Staff Comments. This is a technical change to allow the AOC to recover costs for administrative services support provided by the AOC to trial courts in areas such as accounting, human services and information technology. Previously, these services were reflected as reimbursements from the Trial Court Trust Fund to the Judicial Council when there were two different organization codes. This year, the DOF has proposed this transfer item to allow money from the Trial Court Trust Fund to be transferred for support of the Judicial Council. However, as proposed, the item includes only $1,000, allowing DOF and the Judicial Council to adjust the amount higher, based on the amount of support provided. Last year, the Judicial Council Item had approximately $13 million in reimbursements from the trial courts for administrative services performed. The AOC indicates that it estimates that approximately $40.7 million will be reimbursed in the budget year from trial courts for the Administrative and Information Services Infrastructure Initiative. In order to more accurately portray how funds are to be expended, this transfer item should include a better estimate for the amount that will be transferred.

Staff Recommendation. Staff recommends holding this issue open, pending additional information from the AOC on the estimated cost of the services that it will perform for the trial courts. Staff recommends that when the Subcommittee approves this change, it also include the estimated amount to be transferred.

Action

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes $687.7 million for the DOJ, which is an increase of $10.9 million, or 1.6 percent above current year expenditures. General Fund support of $322.5 million represents an increase by $3.6 million or 1.1 percent from the estimated current year budget.

DOJ Program Requirements

Program	2004-05	2005-06 (*dollars in thousands*)	2006-07	Change	Percent Change
Directorate and Administration	$24,703	$28,434	$29,185	$751	2.6%
Distributed Directorate and Administration	-24,703	-28,434	-29,185	-751	0.0%
Legal Support and Technology	42,781	48,804	48,442	-362	-0.7%
Distributed Legal Support and Technology	-42,781	-48,804	-48,442	362	0.0%
Executive Programs	14,536	15,287	15,495	208	1.4%
Civil Law	104,195	124,471	122,060	-2,411	-1.9%
Criminal Law	111,799	100,140	103,624	3,484	3.5%
Public Rights	57,434	80,399	78,612	-1,787	-2.2%
Law Enforcement	164,526	183,579	213,316	29,737	16.2%
California Justice Information Services	144,131	161,727	175,629	13,902	8.6%
Gambling	13,299	15,503	18,997	3,494	22.5%
Firearms	12,037	12,246	17,261	5,015	41.0%
State-Mandated Local Programs	1				
Unallocated Reduction	0				
Total	**$621,958**	**$693,352**	**$744,994**	**$51,642**	**7.4%**
Authorized Positions	**4,687.4**	**5,230.7**	**5,386.2**	**155.5**	**3.0%**

DOJ Budget Adjustments Proposed for Vote-Only

Issue Title	Positions	Dollars
1. Firearms Database Workload. The proposal requests 34 positions and $5 million for handling workload associated with the DOJ Armed Prohibited Persons System (APPS) database, which was developed pursuant to Chapter 944, Statutes of 2001. The APPS database cross-references persons who possess or own a firearm and have been subsequently prohibited from owning or possessing a firearm, including persons convicted of a felony or violent misdemeanor, persons who have been committed to a mental health treatment facility, and persons with active restraining orders. (General Fund)	34.0	$4,974,000
2. Investigative Support Team, San Francisco. The proposal requests 2 Special Agent positions, 1 Special Agent Supervisor position, and $587,000 to establish a new Investigative Support Team (IST) to provide services to the Attorney General's San Francisco legal office. There are currently 4 IST teams across the state that provide assistance in conducting criminal and civil investigations. This new team would cover the 14-county San Francisco region. (General Fund)	3.0	$587,000
3. Domestic Violence Restraining Order System (DVROS). The proposal requests $352,000 and three positions in order to ensure that criminal protective orders are being properly entered into the DVROS system. (General Fund)	3.0	$352,000
4. Vehicle Replacement. This proposal requests $3.3 million to establish an annual plan of vehicle replacement on an average of every six years. (General Fund)		$3,315,000
5. Forensic Equipment Replacement. This proposal requests $4.6 million to establish an ongoing equipment baseline to replace forensic equipment. Last year, the Subcommittee funded equipment purchases on a one-time basis and requested the DOJ to provide an equipment replacement schedule. (General Fund)		$4,562,000
6. Relative Care Electronic Storage Space. The proposal requests $299,000 to process additional fee exempt relative/emergency placement criminal offender record information requests. (General Fund)	0	$299,000
7. Underwriters Litigation. This request proposes $4.2 million for 2006-07 and $2 million in 2007-08, and 2.6 limited-term positions to continue funding the specialist counsel with expertise in insurance-coverage litigation and to provide oversight for the litigation. (General Fund)	0	$4,224,000

8. Bureau of Medi-Cal Fraud and Elder Abuse Civil Prosecutions Unit. This request proposes 23.4 positions and $3 million to prosecute pharmaceutical manufacturers for violations of the False Claims Act, and to investigate and prosecute other violations of the False Claims Act. (Federal Funds and Special Funds)	23.4	$3,039,000
9. Bureau of Forensic Services Workload. This request proposes permanent establishment of 12 senior criminalist positions and $1.6 million to address the implementation of industry requirements associated with a change in accreditation standards. The ongoing funding requested is $1.5 million. (General Fund)	12.0	$1,604,000
10. California Law Enforcement Telecommunications System (CLETS) Workload Augmentation. This request proposes 3 positions and $327,000, to process increased workload for the CLETS system. The DOJ reports that due to a lack of resources, there is currently a 7-month to 15-month delay in implementing client agencies' requests related to the CLETS system. (General Fund)	3.0	327,000
11. Network Encryption. This request proposes $2 million ($903,000 General Fund and $1.1 million Motor Vehicle Account) and 3 positions for the development and implementation of network encryption as required by federal security policy. The proposal requests $3.1 million ($1.4 million GF) in 2007-08 and $1.7 million ($745,000 GF) ongoing. (General Fund and Motor Vehicle Account).	3.0	$2,007,000
12. Expansion of Latent Print Program Workspace. This request proposes a one-time expenditure of $596,000 to expand the Sacramento Latent Print Program to address deficiencies identified by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board. (General Fund)		$596,000
13. Registry of Charitable Trusts Automation Project. This request proposes an increase of $686,000 from special funds and two limited-term positions to develop, procure and implement an automated system for the Registry of Charitable Trusts. The request proposes $346,000 in 2007-08 and $93,000 ongoing for maintenance. The Registry of Charitable Trusts is self-funded through fees. The Budget Act of 2005 established the Registry of Charitable Trusts Fund and requires all fees generated by the Registry, including Conservator Registry Fees, to be deposited into the Trusts Fund. This proposal includes clean up trailer bill language specifying that moneys in the Trusts Funds are to maintain both the Registry of Charitable Trusts and the Registry of Conservators, Guardians, and Trustees. (Special Funds)	2.0	$686,000

14. Missing Persons DNA Program Augmentation. This request proposes an increase of $1.2 million from the Missing Persons DNA Database Fund in 2006-07, $1.1 million in 2007-08 and 2008-09, and $199,000 ongoing to handle the current level of incoming requests and the pre-existing backlog for the identification of missing and unidentified persons. (Special Fund)	7.0	$1,221,000
15. Third Party Provider Licensing Workload. This request proposes $904,000 and 9 positions from the Gambling Control Fund to meet the workload for the Third Party Providers of Proposition Players Services licensing program. (Special Fund)	9	$904,000
16. Collections Unit. This request proposes an augmentation of $635,000 from the Legal Services Revolving Fund and 5.9 positions on a two-year limited-term basis to establish a Collections Unit to enforce monetary judgments obtained by the Division of Public Rights. The proposal includes trailer bill language that provides that persons who fail to pay any liability or penalty in a timely basis shall be required to pay attorney's fees and costs for any collections proceedings to enforce payment. (Special Fund)	5.9	$635,000
17. Proactive Analysis Collaboration Team (PROACT). This request proposes an augmentation of $682,000 from federal funds and 6 positions to create a PROACT team and meet the increased workload for the inclusion of crimes into the Western States Information Network. (WSIN).(Federal Funds)	6	$682,000
18. National Criminal History Improvement Program (NCHIP). This request proposes a one-time increase of $1.4 million form federal funds and 2 limited-term positions to continue criminal record improvement activities for the 11th consecutive year. (Federal Funds)	2	$1,425,000
19. Proprietary Security Services Act. This request proposes $5.6 million from Fingerprint Fee Account Funds and 31 positions to process criminal record information requests from the Department of Consumer Affairs, Bureau of Security and Investigative Services pursuant to Chapter 655, Statutes of 2005 (SB 194). (Special Fund).	31	$5,600,000

Staff Recommendation. Staff recommends approval as budgeted for the vote-only issues.

Action.

DOJ Discussion Issues

1. Special Crimes Unit Staffing Request.

Budget Request. The budget proposes $1.3 million and 13 positions to handle increased workload in the area of complex financial crimes and identity theft. According to the department, it does not have enough investigative and paralegal staff in its Special Crimes Unit to permit the timely investigation and prosecution of complex financial crimes.

Analyst's Recommendation. At the time of its *Analysis*, the LAO had recommended rejection of the $1.3 million pending receipt and review of additional information to justify the augmentation. The LAO indicates that the DOJ has provided additional information supporting the workload in the request, and that based on the provided information, the LAO is no longer recommending rejection of the proposal.

Staff Recommendation. Staff recommends approval of the request.

Action.

2. California Methamphetamine Strategies (CALMS) Program.

Budget Request. The budget proposes $6 million and 31 positions, mostly special agents, to provide technical assistance to local law enforcement in less populated areas of the state where some methamphetamine production occurs.

Analyst's Concerns. The LAO indicates that the request provides no information on the potential distribution of methamphetamine production by region, no information on the existing level of local resources dedicated to methamphetamine enforcement, and no workload data to justify the requested number of positions. The LAO believes that the department should provide this information so that the Legislature can determine the level of resources, if any, that should be dedicated to these activities. The department should also evaluate and report on the extent to which it may be able to redirect resources within its narcotics enforcement division. The LAO also notes that the state Office of Emergency Services administers the War on Meth grant program, which provides grants totaling $9.5 million to a number of rural and central valley counties for methamphetamine-related law enforcement activities. The LAO indicates that it is unclear how the requested $6 million and related 31 positions would be coordinated with the activities currently funded at the local level through the War on Meth grant program.

Analyst's Recommendation. In evaluating this request, the LAO believes that the Legislature should ensure that all available resources are effectively targeted to areas of the state with the greatest need. The LAO recommends rejection of the $6 million and 31 positions pending receipt of additional information.

Staff Comments. Starting in 1998-99 the federal government provided $18.2 million for this program for three years. As federal funds have been reduced, the state has provided additional General Fund to fund the program. In the current year, the DOJ has $8.6 million in General Fund and $4.3 million in federal funds, for a total of $13 million for the CALMS program.

Staff Recommendation. Staff concurs with the LAO recommendation to reject funding for the CALMS expansion.

Action.

3. Gang Suppression Enforcement Teams.

Budget Request. The budget proposes $6.5 million and 33.6 positions to establish 4 Gang Support Enforcement Teams (GSET). The proposal would also fund an additional two teams in 2007-08 for a total of $9.8 million.

Analyst's Recommendation. The LAO recommends rejection of the request for $6.5 million pending receipt of additional information. The LAO notes that the request suggests that there has been a significant increase in gang-related activity but provides no data to support this assertion. Additionally, most gang activity continues to be concentrated in regions that have a long history of dealing with gangs locally, such as in southern California and the Bay Area. The LAO notes that the department's request does not provide information to describe how these regions, which have developed expertise in dealing with the gang problem, would benefit from the presence of DOJ special agents. Pending receipt and review of this additional information, the LAO recommends rejection of the request for $6.5 million, which is proposed to grow to $9.8 million in 2007-08.

Staff Recommendation. The proposed budget for DOJ significantly expands the number of Special Agent positions at the Division of Law Enforcement. Should the Subcommittee approve funding for the request, staff recommends that rather than expanding by 4 teams in the budget year and an additional 2 teams in 2007-08, that the Subcommittee approve two teams and allow the department to come back in the future with better data to justify additional teams.

Action.

4. Underground Economy.

Budget Request. The budget proposes $556,000 and 4.3 positions to establish an Underground Economy Statewide Investigation and Prosecution Unit within the Public Rights Division. This unit would work as part of the Joint Strike Force on the Underground Economy (JESF), a multi-agency coalition which is headed by the Employment Development Department (EDD) and includes DOJ. It would also work in conjunction with the Economic and Employment Enforcement Coalition (EEEC), another multi-agency coalition established July 1, 2005, that includes four state entities (Divisions of Labor Standards Enforcement and Occupational Safety and Health in the Department of Industrial Relations, EDD, and Contractor's State Licensing Board in the Department of Consumer Affairs) and the U.S. Department of Labor. According to the DOJ, the focus of the unit would be the investigation and prosecution of various underground economy cases, including unfair competition cases seeking restitution for unpaid wages, and criminal cases dealing with theft of labor, withholding of wages, and tax evasion.

Analyst's Concerns. The LOA has raised two concerns with this request. First, the LAO notes that DOJ asserts that the unit will work together with other members of JESF but does not specify the role of the unit with respect to other members of the strike force. Second, the proposal identifies several potential sources which would generate workload for the unit, most notably the newly created EEEC and local prosecutors that lack the expertise to litigate these cases. However, the department does not provide information to demonstrate that such workload exists. The LAO notes that several agencies involved in EEEC have in-house legal staff that represent the agencies in cases against employers. Moreover, other affected agencies, such as the tax and licensing agencies, use current DOJ staff when their assessments are challenged in court. Since EEEC has only been in existence for less than a year, the LAO believes that it may be premature to establish an ongoing unit within DOJ. It is possible that future DOJ workload created by EEEC could be absorbed using existing resources.

Analyst's Recommendation. The LAO recommends rejection of the request.

Staff Recommendation. Staff is currently reviewing materials provided to the Subcommittee by the DOJ. Staff recommends holding this issue open at this time.

Action.

5. Division of Gambling Control.

The LAO recommends that the division's operations continue to be supported entirely by the Indian Gaming Special Distribution Fund (SDF) and the Gambling Control Fund. Revenues for these funds come from tribal-state gambling compacts, as well as fines and fees collected from gambling regulation. The administration now proposes to provide a portion of the funding for the division's expansion from the General Fund. The rationale given by the administration is that some tribes' payments go directly to the General Fund rather than SDF; and, therefore a proportion of the costs of operating the division should also be paid from the General Fund. However, state law and the tribal compacts allow funding for all gambling related regulatory activities to come from SDF, which is projected to have a fund balance of $113 million at the end of 2006-07. Accordingly, the LAO recommends continuing to fund the division entirely from SDF and Gambling Control Fund for a General Fund savings of $367,000.

Staff Recommendation. Staff recommends approval of the proposal. Consistent with the LAO recommendation, staff recommends approval of the funding from the SDF rather than from the General Fund.

Action.

6. Radio Communications Equipment Replacement.

Budget Request. The proposal requests $2.8 million General Fund in one-time funds to replace its radio communications system infrastructure (repeaters, control stations, and desktop dispatch consoles), and $936,000 of ongoing General Fund authority to establish beginning in 2007-08 an annual replacement program for portable radios and other radio equipment.

Staff Comments. The Subcommittee may wish to hold this issue open pending hearings on the Office of Emergency Services and the California Highway Patrol.

Action.

1870 California Victim Compensation and Government Claims Board

The California Victim Compensation and Government Claims Board, formerly known as the Board of Control, consists of three members: the Secretary of State and Consumer Services who serves as the chair; the State Controller; and a public member appointed by the Governor. The primary functions of the California Victim Compensation and Government Claims Board are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses, (2) consider and settle all civil claims against the state, (3) provide equitable travel allowances to certain government officials, (4) respond to bid protests against the state alleging improper or unfair acts of agencies in the procurement of supplies and equipment, and (5) provide reimbursement to counties for special elections expenditures.

Budget Request. The budget proposes $136.2 million ($102.7 million from the Restitution Fund), which is an increase of $4.1 million, or 3.2 percent from anticipated current-year expenditures. Of the total proposed expenditures, $124.1 million is proposed for the Citizens Indemnification Program, which indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. This represents an increase of $4 million, or 3.4 percent, for this program from estimated current-year expenditures.

California Victim Compensation and Government Claims Board -- Program Expenditures

	Expenditures *(dollars in thousands)*				**Percent**
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**Change**
Citizens Indemnification	$100,406	$126,805	$126,006	-$799	-0.6%
Quality Assurance & Revenue Recovery	6,290	8,235	8,938	703	8.5%
Disaster Relief Claim Program	0	19	19	0	0.0%
Civil Claims Against the State	823	872	1,232	360	41.3%
Citizens Benefiting the Public (Good Samaritans)	20	20	20	0	0.0%
Administration	7,836	7,836	8,060	224	2.9%
Distributed Administration	-8,130	-8,130	-8,372	242	3.0%
Executive Office Administration	294	294	312	18	6.1%
Totals, Programs	**$107,539**	**$137,792**	**$136,215**	**-$1,577**	**-1.1%**
Total Authorized Positions	**283.2**	**297.2**	**297.2**	**0**	**0.0%**

California Victim Compensation and Government Claims Board – Source of Funding

	Expenditures *(dollars in thousands)*				**Percent**
Fund	**2004-05**	**2005-06**	**2006-07**	**Change**	**Change**
General Fund	$0	$1,841	$0	-$1,841	n/a
Restitution Fund	81,311	101,264	102,740	1,467	1.5%
Federal Trust Fund	25,405	33,796	32,224	-1,572	-4.7%
Reimbursements	823	891	1,251	360	40.4%
Totals, Programs	**$107,539**	**$137,792**	**$136,215**	**-$1,577**	**-1.1%**

Board Issues Proposed for Vote-Only

A. Overhead Costs.
Budget Request. The budget proposes an augmentation of $344,929 in reimbursements to reimburse its share of the Victim Compensation and Government Claims Board overhead costs.

B. CaRES
Budget Request. The budget proposes $1.2 million in federal funds to maintain the Compensation and Restitution System (CaRES) information technology system.

C. Expand Criminal Restitution Compacts.
Budget Request. The budget proposes an increase of $607,000 from the Restitution Fund, to expand the Criminal Restitution Compact (CRC) contracts to include four additional counties: Merced, Riverside, San Joaquin, and Tulare. The funding provides restitution specialist positions to ensure that Restitution is ordered by the court in those cases in which victims have received benefits. In October 2004, the board completed a study showing that the CRC contracts were very effective in increasing restitution orders and fines.

Finance Letter
D. Relocation Costs.
Finance Letter Request. This April Finance Letter requests a one-time increase of $2 million from the Restitution Fund and $82,000 in reimbursements due to relocation costs for the Board.

Staff Recommendation. No issues have been raised in the proposed vote-only items. Staff recommends approval of the vote-only issues.

Action.

Discussion Issues

1. Joint Power Contract Request.

Budget Request. The budget proposes an augmentation of 5 percent ($521,362 from the Restitution Fund) to fund increases associated with the Joint Power Agreements with counties that process new claims and bills.

Staff Comments. Staff notes that the Board has received a price increase of 2.6 percent in the current year, and proposed for the budget year a price increase of 3.1 percent on the amount in their budget related to the JPA contracts. The board does not object to not funding this separate increase.

Staff Recommendation. Staff recommends rejecting the proposal to augment Restitution Fund by $521,362. The price increases provided in the current year and for the budget year will more than cover this requested amount.

Action.

2. Proposed Provisional Language in Budget Item 1870-001-0214

Budget Request. Provision 1 of Budget Item 1870-001-0214 contains some intent and flexibility language to augment expenditures from the Restitution Fund related to joint power agreements and criminal restitution compacts (CRCs).

Staff Comments. Similar provisional language has been in the Budget Acts since at least 2000-01. The Board indicates that the authority has never been used. Changes in the amount for the joint power agreements and the CRCs are adjusted through budget change proposals during the regular budget process. Due to the fact that the language has never been used, the agency does not object to deleting the following language:

> 1. It is the intent of the Legislature that local agencies which contract with the California Victim Compensation and Government Claims Board as part of joint powers agreements or criminal restitution compacts are reimbursed for their costs. Notwithstanding any other provision of law, the Department of Finance may authorize expenditure from the Restitution Fund in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity is provided to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house of the Legislature that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

Staff Recommendation. Staff recommends deleting the language. Due to the fact that the language has never been used, the agency does not object to deleting the language.

Action.

Appendix

Proposed Trailer Bill Language
Department of Justice Issues

From RN 0601031

Registry of Charitable Trusts Automation Project

Section 12587.1 of the Government Code is amended to read:

12687.1 (a) The Registry of Charitable Trusts Fund is hereby established in the State Treasury, to be administered by the Department of Justice.
(b) Notwithstanding any other provision of law, all registration fees, registration renewal fees, and late fees or other fees paid to the Department of Justice pursuant to this article, Section 2850 of the Probate Code, or Section 320.5 of the Penal Code, shall be deposited in the Registry of Charitable Trusts Fund.
(c) Moneys in the fund, upon appropriation by the Legislature, shall be sued by the Attorney General solely to operate and maintain the Attorney General's Registry of Charitable Trusts *and Registry of Conservators, Guardians and Trustees*, and provide pubic access via the Internet to reports filed with the Attorney General.

Collections Unit

Section 12513.1 is added to the Government Code to read:

12531.1 Any person who fails to pay on a timely basis any liability or penalty imposed by or on behalf of any state agency or official, the People of the State of California, the State of California, or any liability or penalty otherwise imposed in any matter prosecuted by Attorney General, shall be required to pay, in addition to the liability or penalty, interest, attorneys' fees, and costs for any collection proceedings to enforce payment.

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, April 6, 2006
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Dave O'Toole

"B" AGENDA

Item Number and Title **Page**

Vote-Only Budget Items

Discussion Items

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

VOTE-ONLY BUDGET ITEMS

0950 State Treasurer's Office

The State Treasurer, a constitutionally established office, provides banking services for State government with the goals of minimizing interest and service costs, and maximizing yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the State; investment of temporarily idle State monies; administration of the sale of State bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other State agencies.

The Governor's budget funds 222.8 positions (with no new positions) and expenditures of $22.8 million.

The Treasurer's Office also plays a central administrative role to numerous state boards, authorities and commissions. The Treasurer serves as chair or member of these various agencies that organizationally report to the State Treasurer's Office. Several of the following agencies are authorized to issue debt for specific purposes as permitted by law. These agencies also may advise California municipalities on debt issuance and oversee the state's various investment operations.

Budget Item	Title
0954	**Scholarshare Investment Board**
0956	**California Debt and Investment Advisory Commission**
0959	**California Debt Limit Allocation Committee**
0965	**Calif, Industrial Development Financing Advisory Comm.**
0968	**California Tax Credit Allocation Committee**
0971	**Calif. Alt. Energy & Advanced Trans. Financing Authority**
0977	**California Health Facilities Financing Authority**
0985	**California School Finance Authority**

The Governor's budget includes no adjustments to the State Treasurer's Office or the boards, committees, commissions, and authorities identified above.

0977 California Health Facilities Financing Authority

The California Health Facilities Financing Authority (CHFFA) issues revenue bonds to assist qualified private nonprofit corporations or associations, counties, and hospital districts in financing or refinancing the construction, equipping or acquiring of health facilities. CHFFA also administers the Children's Hospital Program established by Proposition 61. The CHFFA was established by Chapter 1033, Statutes of 1979. CHFFA consists of nine members: the State Treasurer, the Director of Finance, the State Controller, two public members appointed by the Senate, two public members appointed by the Assembly, and two public members appointed by the Governor.

1. Finance Letter: Position Augmentation for Administration Local Assistance Workload.
The CHFFA requests $76,000 (Children's Hospital Fund) and one junior staff analyst position to assist in the administration of local assistance grants for children's hospitals, pursuant to Proposition 61. Proposition 61, passed by voters on November 2, 2004, authorized the issuance of up to $750 million in General Obligation Bonds to fund the Children's Hospital Program. Prop 61 allowed up to one percent of bond proceeds to be used for administration. With this position, less than one-half of one percent of the total share of bond proceeds will be devoted to administration over the life of the bond.

9840 Augmentation for Contingencies and Emergencies

Each year, the Budget Act includes appropriation items in Item 9840 to be used to supplement departments' appropriations that are insufficient due to unanticipated expenses or emergency situations. There are three separate appropriations, one for each fund type - General, special, and non-governmental cost funds. These appropriations are allocated to other departments by the Department of Finance (with Legislative review) based upon the determination of need.

The proposed budget includes $79 million in combined funding for contingencies and emergencies to be funded by General Fund ($49 million), special funds ($15 million), and unallocated nongovernmental cost funds ($15 million).

9850 Loans for Contingencies or Emergencies

This budget item allows for up to $2.5 million in loans to state agencies from the General Fund, under terms set by the Department of Finance. There are no budget issues associated with this item.

Control Section 4.75 – Statewide Surcharges

The Administration submitted a Finance Letter to add Control Section 4.75, which will allow the Director of Finance to adjust Governor's Budget support appropriations to reflect appropriate surcharge contained in the Budget Act. This one-time adjustment will amend disallowable federal costs and make other adjustments totaling $2.3 million and spread across 70 departments.

> *Control Section 4.75. The Director of Finance may adjust departmental support appropriations for the purpose of reimbursing the Department of General Services for centralized costs billed through the statewide surcharge.*

VOTE ON VOTE-ONLY BUDGET ITEMS:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, research, and liaison with local governments. The OPR also oversees programs for small business advocacy, rural policy, and environmental justice. In addition, the office has responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and overseeing the California Service Corps. The Governor's budget funds 72.3 positions and expenditures of $47 million.

1. Finance Letter: California Service Corps Volunteer Matching Database
The Administration requests that the Office of Planning and Research budget be increased by three positions and $1,140,000 General Fund in 2006-07, $1,203,000 in 2007-08, and $766,000 ongoing, to enable the California Service Corps to develop and maintain an Internet-based volunteer matching portal. This new service is intended to match volunteers with opportunities spread throughout California. The department believes this initiative will address California's low participation in volunteer opportunities relative to other states (46th in the nation) and the need for a centralized system to connect volunteers to opportunities.

The California Service Corps (CSC) has modeled the proposed web portal on the USA Freedom Corps web site (usafreedomcorps.gov), which consolidates volunteer opportunity data and directs the prospective volunteers to one of the main existing volunteer matching web sites, such as volunteermatch.com and 1-800volunteer.org or "hubs," such as local volunteer centers. The proposed portal will feature California opportunities exclusively, tying between 40 and 60 hubs in the state. In order to encourage up-to-date and accurate postings on the hubs, the CSC expects to sign quality assurance agreements with the organizations.

Staff Comment: This is not the first state-led effort of this kind. In 2001, the former Governor's Office of Service and Volunteerism (now the CSC) initiated a web site with a searchable database, a system that was discontinued in 2004 due to its search limitations, particularly a lack of volunteer opportunities. The proposed portal is intended to address those limitations, utilizing input from federal, state, local, education, and nonprofit organizations.

The BCP includes a hefty marketing component that will largely determine the success of the portal. Through a half million dollars in marketing in the first year, followed by lesser amounts in subsequent years, the OPR hopes to drive Internet users to the state portal, as opposed to one of the existing volunteer matching web sites.

The three proposed staff would perform a variety of tasks to implement the system, conduct marketing activities, and travel around the state holding workshops and training. The proposed activities are largely one-time in nature. Staff would also coordinate volunteers for disaster response, an activity now performed primarily by the American Red Cross, as well as other agencies.

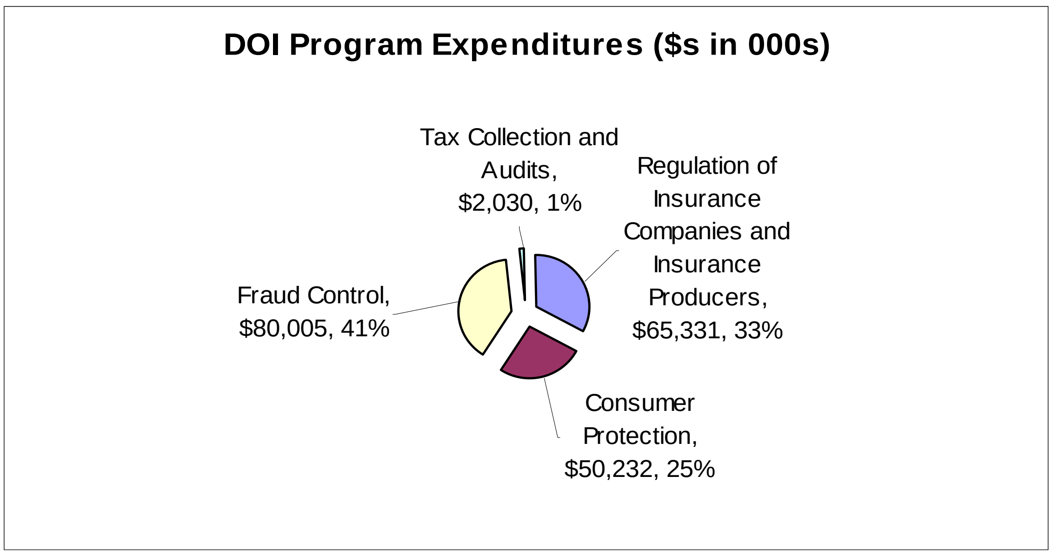
Staff Recommendation: Request the OPR report on:

1. Deficiencies in the nonprofit sector-led volunteer matching services (Internet and non-Internet) that suggest the state should take over this service.
2. Specific marketing strategies that would be utilized in the budget year and subsequent years.
3. Strategies to convince volunteers who don't use the Internet to utilize the portal.
4. Deficiencies in current Red Cross disaster response services that the CSC hopes to fix with this portal.

0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the Department of Insurance regulates the largest insurance market in the United States with over $115 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and those insurance companies are financially able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries; administers the conservation and liquidation of insolvent and delinquent insurance companies; reviews and approves insurance rates; and combats insurance fraud.

The Governor's budget funds 1272.9 positions (including 13 new positions) and expenditures of $197.6 million.



ISSUES PROPOSED FOR VOTE-ONLY

A. BCP: Local Assistance Funding for Combating Health Insurance Fraud
The Department of Insurance requests $1.1 million (Insurance Fund) for local assistance spending to combat health insurance fraud. These funds would be awarded to district attorneys to augment their investigations and prosecution of fraudulent health insurance claims.

B. BCP: Office of Administrative Hearings Support
The Department of Insurance requests an augmentation of $837,728 (Insurance Fund) ongoing to address a workload increase for the Office of Administrative Hearings. If an applicant for an insurance license is likely to be denied, the applicant is offered an opportunity for hearing. The Office of Administrative Hearings in the Department of General Services administers these hearings to determine the competency and legality

of all applicants. The additional workload is reflected in the sharp increase in cases filed, from 230 in 2003-04 to an expected 730 cases in 2006-07.

C. BCP: Implementation of AB 1183: Automobile Insurance Violations Backlog
The Department of Insurance requests three, two-year limited term positions and $330,000 (Insurance Fund) to address the backlog of agenda and insurance company law violations against consumers of automobile insurance. The funding level and authority for this activity were provided through Chapter 717, Statutes of 2005 (AB 1183, Vargas). AB 1183 extended the fee assessed on automobilie insurers to fund investigations into violations allegedly committed by insurers against consumers.

D. BCP: Worker's Compensation Research Funding
The Department of Insurance requests $1 million (Insurance Fund) to fund a research study that focuses on measuring the extent of worker's compensation insurance fraud and identifying the emerging fraud trends in that area. Funding for this study would come from a one-time assessment to be collected by the Department of Industrial Relations. A working group of DOI staff, district attorneys, academics, and other interested parties recently convened and determined that this type of study would be beneficial in better identifying areas for the DOI to focus its anti-fraud resources. This study was also recommended in an April 2004 Bureau of State Audits report.

VOTE ON VOTE-ONLY ISSUES A THROUGH D:

DISCUSSION ISSUES

1. Finance Letter: Increase to Local Assistance Workers' Compensation Spending Authority
The Department of Insurance requests $1.3 million (Insurance Fund) ongoing to fund increased investigations and prosecution of workers' compensation fraud. This augmentation would raise the size of this annual subvention to local district attorneys to $22.7 million (Insurance Fund). The need for an additional assessment on insurers for this activity was decided by the Governor-appointed Fraud Assessment Commission in December 2005.

Staff Comment: The workers compensation study (described in "D" above) will take a broad-based approach to measure the extent of workers' compensation fraud and the emerging trends in that area. It is highly likely that the study will suggest new or revised strategies to combat workers' compensation fraud and better ways to allocate resources. Consequently, augmenting the local assistance subvention for this anti-fraud activity on an ongoing basis is premature.

Staff Recommendation: Approve the $1.3 million augmentation for one year only.

VOTE:

2. BCP: Implementation of Patient and Provider Protection Act
The Department of Insurance (DOI) requests ten positions and $1.2 million (Insurance Fund) to implement the provisions of Chapter 723, Statutes of 2005 (SB 367). This law required the department to process complaints and inquiries from insureds and their

health care providers. This law also required the department to provide information concerning the process for filing complaints and making inquiries concerning health insurers. These positions will field those complaints and investigate unfair claims practices found during these processes.

Staff Comment: Both the LAO and the Department of Insurance have recognized the uncertainty of the Patient and Provider Protection Act workload. The LAO, in their *Analysis of the 2006-07 Budget Bill,* recommended that the staffing level be set at five new staff. The DOI estimates the workload, based on the input of medical groups and their own experience with similar assignments, to be between 10 and 16 positions. DOI will request additional positions in future years if the workload proves that need.

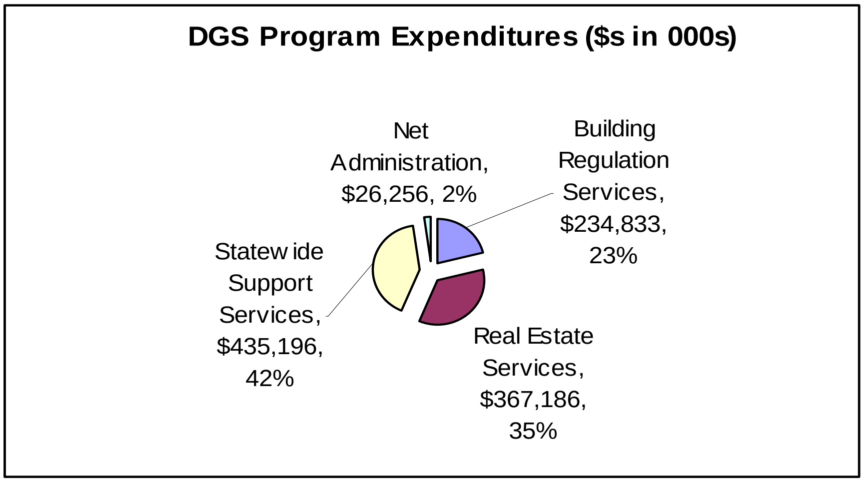
Based on new information provided at a recent Assembly Budget Sub-4 hearing, as well as discussions with staff, it appears that the DOI's workload estimate is the best available at this time. Consequently, the action of Assembly Budget Sub-4: adopting Supplemental Report Language requiring the DOI to report annually for three years on its workload and staffing requirements in implementing SB 367, and, if workload is insufficient, submit a negative BCP to correct staffing levels, appears appropriate.

Staff Recommendation: APPROVE the BCP and adopt Supplemental Report Language requiring the DOI to report annually for three years to the Legislature on its workload and staffing requirements in implementing SB 367.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and centralized support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the state departments' procurement of materials, communications, transportation, printing, and security. The Governor's budget funds 3638.8 positions (including 12 new positions) and expenditures of $1.05 billion.



VOTE ONLY ISSUES

A. BCP: Operations and Maintenance for CalTrans Headquarters
The Department of General Services requests $885,000 Service Revolving Fund to reflect the addition of eight positions in the department's budget for operations and maintenance at several CalTrans Sacramento-area buildings. This request responds to a legislative conference committee action in 2005 to reduce CalTrans' building operations and maintenance costs and transfer responsibility to DGS. A corresponding reduction of staff occurred in the CalTrans budget.

B. BCP: Public Utilities Commission Deferred Maintenance
The Department of General Services requests $1.021 million Service Revolving Fund to make repairs and complete deferred maintenance at the Edmund G. Brown building in San Francisco. This request conforms to an interagency agreement executed in 1998 that requires DGS to provide these services and that those requests go through the BCP process.

C. Finance Letter: Public Utilities Commission Deferred Maintenance
The Department of General Services requests $101,000 Service Revolving Fund to paint the courtyard stairwells at the Edmund G. Brown building in San Francisco. This request augments the $1 million request described in issue B above.

D. BCP: Building and Property Repairs
The Department of General Services requests a permanent, $2.5 million Service Revolving Fund augmentation for special repairs projects at specified DGS buildings. DGS has identified a total existing deferred maintenance need in these buildings of $12.9 million.

E. BCP: Service Level Reduction at the Stanford Mansion
The Department of General Services requests a reduction of $271,000 and four positions for maintenance activities at the Stanford Mansion. The Department of Parks and Recreation (who operates the mansion) has determined that the current maintenance activity level is no longer needed.

F. BCP: Central Heating and Cooling Plant, Sacramento
The Department of General Services requests $128,000 Service Revolving Fund to pay for water quality monitoring and permit fees for the DGS Central Services Plant at 628 Q Street in Sacramento. DGS expects to complete an overhaul of the Central Plant in 2009 and will submit project BCPs annually until the project is complete.

G. BCP: Procurement Division/Interagency Support Division Realignment
The Department of General Services requests to reorganize the Material Services and Statewide Records Management Programs in the Procurement Division by shifting them into the Interagency Support Division. The department believes that shedding these programs in the Procurement Division will enable them to better focus on its procurement mission. This shift moves 48.5 personnel years and $6.8 million in Service Revolving Fund Expenditure Authority.

H. BCP: Operating Expense Reconciliation for Personnel Services Reductions
The Department of General Services requests to reduce their expenditure authority to reflect operating expense savings that should have been captured with earlier statewide personnel services reductions. For DGS, Control Section 31.60 of the 2002 Budget Act eliminated 196 positions and Control Section 4.10 of the 2003 Budget Act eliminated 407 positions. Corresponding operating expense reductions did not occur at the time due to uncertainty over departmental needs. Total Service Revolving Fund and Architecture Revolving Fund reductions would be $7.8 million.

I. BCP: Support for Emergency Telephone Services
The Department of General Services requests four positions and $815,000 in Emergency Telephone Number Account funding to enable compliance reviews of local 911 services and enhance the state's 911 telephone infrastructure. The department must monitor local Public Safety Answering Points' (PSAPs) use of these funds through compliance reviews, which involves verifying compliance with statewide standards.

J. BCP: Convert Real Estate Officer Positions to Permanent
The Department of General Services requests to convert two real estate officer positions from limited-term to permanent. These positions would address Due Diligence workloads required of the department for all lease-revenue bond-funded projects. These positions are funded at $169,000 Service Revolving Fund. The department believes that not disapproving these positions will delay projects and increase overall projects.

K. Finance Letter: Maintence and Custodial Serivces of CalTrans Traffic Management Center

The Department of General Services requests $852,000 and ten positions ongoing to perform maintance and custodial duties at the new Traffic Management Center in Los Angeles. CalTrans requested these services be provided by DGS at this facility.

L. Finance Letter: 721 Capitol Mall Building Reopening

The Department of General Services requests 2.2 positions and $250,000 Service Revolving Fund in 2006-07 and 10.3 positions and $1.2 million Service Revolving Fund to provide maintenance and custodial services at the new office building. This building had been vacated and renovated and will now be occupied by the Department of Rehabilitation.

M. Finance Letter: Technical Correction to State Emergency Telephone Number Account

The Department of General Services requests to reduce the local assistance appropriation in Item 1760-101-0022 by $19,303,000 to reflect the proposed level of expenditures. The technical error reflects the inclusion of one-time costs that should have been excluded from the budget year projection. According to the department, this correction will not reduce their ability to meet operational obligations.

In addition to this correction, the department requests to revise Item 1760-101-0022 to separately schedule program and subvention expenditures. The following budget bill language makes that change:

> *1760-101-0022--For local assistance, Department of General Services, for reimbursement of local agencies and service suppliers or communications equipment companies for costs incurred pursuant to Sections 41137, 41137.1, 41138, and 41140 of the Revenue and Taxation Code, payable from the State Emergency Telephone*
> *Number Account . . . ~~171,573,000~~ 152,270,000*
> *(1) 911 Emergency Telephone Number System……104,523,000*
> *(2) Enhanced Wireless Services……………………..47,747,000*

N. Finance Letter: Fred C. Nelles Facility in Whittier

The Department of General Services requests $607,000 to complete the sale of 75 acres of the Fred C. Nelles Youth Correctional Facility. These funds will be used to hire private consulting services for final activities needed to resolve the sale. This will include environmental reviews, negotiating the purchase agreement, processing entitlements, and working with local stakeholders to facilitate the sale. The Department estimates this sale will be finalized in 2007-08 with revenues of approximately $106 million.

The following budget bill language would be needed to implement this change.

> *1760-001-0002--For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Property Acquisition Law Money Account . . . 3,050,000*
>
> *Provisions:*
> *1. Of the amount appropriated in this item, $~~1,100,000~~ $1,707,000 is a loan from the General Fund, provided for the purposes of supporting the management of the state's real property assets.*

O. Capital Outlay Finance Letter: Reappropriation of Funding for Structural Retrofit of San Quentin Building 22

The Department of General Services requests $1.182 million (Earthquake Safety Public Building Rehabilitation Fund of 1990) to extend the appropriation for the working drawings phase for the structural retrofit of Building 22 at San Quentin State Prison. The project schedule has been extended due to delays in the completion of modular buildings for swing space. The construction contract is expected to be awarded in August 2006.

The following budget bill language would implement this reappropriation:

1760-491—Reappropriation, Department of General Services. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations are extended to June 30, 2007.

0768—Earthquake Safety and Public Building Rehabilitation Fund 1990

(1) Item 1760-301-0768, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by 1760-491, Budget Act of 2005 (Ch. 38/39, Stats. 2005).

(10) 50.99.079-Department of Corrections, San Quentin, Building 22: Structural Retrofit—Working drawings

P. Capital Outlay Finance Letter: Reversion of Funding for Structural Retrofit of Hospital Building, Wing B at Deuel Vocation Institute.

The Department of General Services requests to revert $1.753 million (Earthquake Safety Public Building Rehabilitation Fund of 1990) for the structural retrofit of Hospital Building, Wing B at Deuel Vocation Institute. The project encountered delays in completing the heating and air conditioning elements of the project, leading to an $827,000 increase in the construction cost. The reverted savings will be added to the $2.58 million appropriation described below.

The following budget bill language would implement this reversion:

1760-495—Reversion, Department of General Services. As of June 30, 2006, the unencumbered balances of the appropriation provided for in the following citation shall revert to the balance of the fund from which it was made:

0768—Earthquake Safety and Public Building Rehabilitation Fund 1990

(1) Item 1760-301-0768, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by 1760-490, Budget Act of 2005 (Ch. 38/39, Stats. of 2005).

(3) 50.99.091-California Department of Corrections, DVI, Tracy, Hospital Building: Structural Retrofit—Construction

Q. Capital Outlay Finance Letter: Increased Costs for Structural Retrofit of Hospital Building, Wing B at Deuel Vocation Institute.

The Department of General Services requests $2.58 million (Earthquake Safety Public Building Rehabilitation Fund of 1990) to complete the construction phase of seismic repairs to the Hospital Building, Wing B at Deuel Vocation Institute. The project encountered delays in completing the heating and air conditioning elements of the project, leading to an $827,000 increase in the construction cost. The $2.58 million cost includes $1.753 million in reverted funding, described above.

VOTE ON VOTE-ONLY ISSUES A THROUGH Q:

DISCUSSION ISSUES

1. New General Fund Commitment for Seismic Safety Expenditures.

The Department of General Services administers the State's Seismic Retrofit Program. The department's criteria and evaluation process are used to assess seismic risk and assign priorities for those buildings deemed most vulnerable to a major earthquake.

The DGS has submitted ten capital outlay BCPs for seismic safety-related expenditures for state buildings. Altogether, these BCPs will cost $3.7 million General Fund in the budget year and commit the state (at least informally) to an estimated $27.9 million in General Fund expenditures in 2008-09. Following are descriptions of those BCPs and the associated budget year and 2007-08 General Fund commitment.

Description of Capital Outlay BCP	**2006-07 GF Expenditures** (Dollars in Thousands)	**2007-08 GF Expenditures** (Dollars in Thousands)
A. Department of Veteran's Affairs Yountville East Ward The Department of General Services requests $336,000 General Fund for preliminary plans and working drawings for an earthquake retrofit of the East Ward of the Veteran's Home in Yountville. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: $141** **Working Drawings: $195**	**$2040**
B. CDC Tehachapi Chapels Facility (Building H) The Department of General Services requests $326,000 General Fund for preliminary plans and working drawings for the Chapels Facility (Building H) at the California Department of Corrections Tehachapi facility. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 160** **Working Drawings: 166**	**1660**
C. Stockton National Guard Armory The Department of General Services requests $370,000 General Fund for preliminary plans and working drawings for the Stockton National Guard Armory. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 185** **Working Drawings: 185**	**1446**
D. Vocational Building at the California Correctional Center in Susanville The Department of General Services requests $336,000 General Fund for preliminary plans and working drawings for the Vocational Building at the California Correctional Center in Susanville. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 143** **Working Drawings: 193**	**4862**
E. Vacaville Correctional Medical Facility, Wings U, T, and V The Department of General Services requests $855,000 General Fund for preliminary plans and working drawings for the Vacaville Correctional Medical Facility, Wings U, T, and V. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 403** **Working Drawings: 452**	**8756**

F. California Institute for Women Infirmaries at Frontera and Corona – Walker Clinic The Department of General Services requests $391,000 General Fund for preliminary plans and working drawings for the California Institute for Women—Walker Clinic at Frontera and Corona. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 203** **Working Drawings: 188**	**2143**
G. California Institute for Women Infirmaries at Frontera and Corona-Infirmary Building The Department of General Services requests $369,000 for preliminary plans and working drawings for the California Institute for Women Infirmary at Frontera and Corona. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 190** **Working Drawings: 179**	**1920**
H. Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California The Department of General Services requests $460,000 General Fund for preliminary plans and working drawings for the Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 215** **Working Drawings: 245**	**3222**
I. California Department of Corrections Jamestown Buildings E and F The Department of General Services requests $224,000 General Fund for preliminary plans and working drawings for the California Department of Corrections Jamestown Buildings E and F. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 102** **Working Drawings: 122**	**1193**
J. Program Management Services The Department of General Services requests $500,000 from the Earthquake Safety and Public Building Rehabilitation Fund of 1990 (Fund 0768) to administer the Seismic Retrofit Program to administer the state's Seismic Retrofit Program. These staff provide expertise in project management and coordination of projects that are funded by other DGS client departments. The Department expects to request $700,000 General Fund in 2007-08 and $675,000 in 2008-09 for this activity.	**$0**	**$700**
TOTAL GENERAL FUND SPENDING:	**$3,667**	**$27,942**

Staff Comment: While these ten BCPs represent a relatively small capital outlay commitment in the budget year, they signal a much greater General Fund commitment in 2007-08 and the years following. According to the Governor's Five-Year Infrastructure Plan, DGS has identified 24 buildings with "critical infrastructure deficiencies." Without the identification of another fund source or adjustment to the current schedule, seismically retrofitting all of these structures will cost $170 million General Fund over the five-year period.

Prior to these proposals, seismic retrofit projects for state buildings were funded out of proceeds from the 1990 Seismic Bond Act. That bond provided $250 million in general obligation bonds for the purpose of earthquake safety improvements to state buildings. The bond funds have been depleted to fix the most urgently needed seismic repairs (seismic Levels VI and VII), and now the department plans to continue its retrofit of all Level V buildings.

As noted, these expenditures were included in the Governor's Five-Year Infrastructure Plan and were proposed to be a part of that $68 billion general obligation bond. With that bond plan apparently suspended, the Legislature faces a large new General Fund commitment for seismic retrofit of state buildings.

The state has made no statutory commitment to completing these seismic retrofit projects by a certain date.

An alternative to funding preliminary plans and working drawings in the same year would be to defer spending on working drawings until 2007-08 or later. There would be no practical impact on completion schedules as working drawings and construction phases can be accomplished in the same year. In the event that bond funding becomes available for 2007-08, perhaps authorized in a November 2006 bond measure, the Legislature could fund working drawings and construction costs out of those bond funds. If working drawings and construction phases were delayed beyond 2007-08, the preliminary plans developed in the budget year would still be used for these projects.

Staff Recommendation: AMEND capital outlay BCPs A through J (above) by funding preliminary plans only (a savings of $1.925 million General Fund) and request the Administration report on the outlook for alternative fund sources for later phases of these capital outlay projects.

VOTE:

2. BCP: Establish Baseline Equipment Budget for New Properties
The Department of General Services, Real Estate Services Division, requests an increase of $185,000 Service Revolving Fund (to $300,000/year) to ensure major equipment is procured as new buildings are completed and when BPM assumes operations and maintenance of existing facilities. Major equipment for operations and maintenance includes items such as riding mowers, fork lifts, and sidewalk sweepers. DGS has over $1.97 million in major equipment in service at this time.

Staff Comment: The information provided by the department indicates that $112,000 of the $185,000 increase in equipment are for new properties (CalTrans Dist 11 and the FTB main office building) that should have been funded with allocations for major equipment when they were constructed. Consequently, the demonstrated *ongoing* need (after the major equipment for the FTB and CalTrans buildings is funded) is $73,000, not $185,000.

Staff Recommendation: AMEND the BCP as follows: approve the $185,000 augmentation for 2006-07 only and approve a $73,000 ongoing augmentation for major maintenance and operations equipment.

VOTE:

3. BCP: Building Security Augmentation at State Buildings
The Department of General Services requests $1.2 million ongoing Service Revolving Fund for increased security costs at five state buildings. These additional expenses are based on reduced service commitments by the CHP at the Ronald Reagan building and

other minor cost increases at four other state buildings. The department will fund these security augmentations through an assessment on building tenants.

Staff Comment:
The state has no standard security requirement for its buildings. The California Highway Patrol may provide a security assessment and recommendation, but there is no central security oversight or advisor. Departments ascertain by themselves what the best level of building security is for their facility, or, in buildings with multiple tenants, all tenants collectively decide to increase their facilities needs. DGS the prepares a cost estimate and presents it to the tenants.

Requests for security augmentations since 9/11 have occurred on a piecemeal basis and there is neither a minimum nor a maximum level of expenditures that a department may devote to building security. Security enhancements can be very expensive. It has been estimated that outfitting all state-owned buildings with x-ray scanners would cost between $40 and $50 million. To the extent that departments do enhance their building security, they either absorb the cost or request an augmentation.

Staff Recommendation: HOLD open and request DGS:
1. Describe the involvement of the Office of Homeland Security in setting state building security levels.
2. Recommend measures to track and control security costs for state buildings.
3. Identify emerging trends in state building security and the anticipated costs.
4. Provide proposed standard security measures and cost ceilings to the Subcommittee at a later date.

4. BCP: State Revolving Fund Loan to Motor Vehicle Parking Fund
The Department of General Services' Office of Fleet Administration requests a one-time loan of $1.772 million from the Service Revolving Fund to cover cash shortages in the Motor Vehicle Parking Fund. This fund receives its revenues from the parking fees assessed on client parkers. The shortfall is due primarily to increased debt service payments on an East End parking lot. The Office of Fleet Administration expects to reduce expenditures to in order to make payments. The loan would be paid off in 2011-12. The following budget bill language would enable the transfer:

> *1760-001-0001—For transfer by the Controller, upon order of the Director of Finance, to the Motor Vehicle Parking Facilities Moneys Account…………………………………(1,772,000)*
> *Provisions:*
> *(1) The transfer made by this item is a loan to the Motor Vehicle Parking Facilities Money Account and shall be repaid as soon as there are sufficient moneys in the recipient fund, but not later than 2011-2012.*

Staff Comment: The department cites permanent expenditure reductions as the mechanism to pay for these costs.

Staff Recommendation: APPROVE the BCP and request the department report on the specific expenditure reductions that must occur in order to repay the loan and the impact on state employees.

VOTE:

4. Emergency Telephone- Enhanced Wireless Services

The Department of General Services requests appropriations of $32 million in 2006-07, $2.4 million in 2007-08, and $306,000 in 2008-09 (State Emergency Telephone Number Account) to fully implement enhanced wireless 911 services statewide. This upgraded service will benefit the state's approximately 12 million wireless telephone users who will be connected into a system that will allow their phone number and location to be shown on a dispatcher's computers screen. This BCP request will tie-in wireless services in the rural, less populated areas of California and facilitate the turnover of off-highway wireless 911 calls to local public safety answering points (PSAPs).

Staff Comment: DGS has encountered lengthy delays in spending 911 funds to expand wireless 911 coverage. Over the last three years, DGS has submitted BCPs revising their expenditure plan, repeatedly citing "technological, regulatory, and scheduling issues" as the cause for delayed implementation.

DGS must continue to adapt to the state's 911 services to changing technologies. The two most prominent emerging 911 needs are Internet provider based voice communications (Voice Over Internet Protocol or VOIP) and data-based 911 "calls" (example: 911 messages sent via instant message or from a laptop). The existing 911 system was not designed to deal with these technologies and a major investment will be needed. DGS must enable the implementation of systems that can handle these types of 911 calls for the state's primary 911 responder (the California Highway Patrol), as well as the local PSAPs.

At this point, DGS does not have an approved plan to upgrade 911 systems to VOIP or data-based calls and no expenditures for those purposes are included in the proposed budget. When a plan is created, the Legislature will review it through the BCP process. Similar to wireless 911 services where California led the nation in creating that 911 technology, California is expected to be on the leading edge of VOIP and data-based 911 technologies.

Section 41030 of the Revenue and Taxation Code requires DGS to determine and set the fee to pay for 911 services. That fee may be set between .50 percent and .75 percent of a phone user's intrastate phone charges.

Under DGS oversight, the balance of the State Emergency Telephone Number Account has accrued to an unnecessarily high level and will remain so for at least the next three years. Balances in the State Emergency Telephone Number Account are displayed in the table below.

Year	Reserve (Dollars in Thousands)
2001-02	$35,294
2002-03	$62,144
2003-04	$87,658
2004-05	$117,495
2005-06	$95,842*
2006-07	$62,159 (projected)
2007-08	$57,985 (projected)
2008-09	$55,968 (projected)

*DGS lowered the rate from .72 to .65 in for 2005-06.

Set at .65 percent, the current fee will generate approximately $130 million this year. (This figure represents an increase of $5 million relative to the proposed budget number, due to higher than expected revenues.) If the fee were lowered to the statutory minimum, .50 percent of intrastate phone charges, the state would collect an estimated $107 million in 2006-07 and $100 million in 2007-08. A reserve of approximately $40 million would be maintained in 2006-07 and $35 million in 2007-08. These reserves would constitute more than 25 percent of annual expenditures, a very prudent reserve level.

With no plan to spend the significant balance, an unnecessarily large fund balance, and the option to increase the fee next year if a plan to expand 911 to VOIP and data-based calls is approved by the Legislature, there is no valid reason to maintain the fee at .65. A prudent reduction in the Emergency Telephone Number Fee to .50 percent will provide approximately $50 million in tax relief to telephone users over the next two years.

Staff Recommendation:
1. APPROVE the BCP.
2. Adopt trailer bill language reducing the charge from .65 to .50 percent for 2006-07 and 2007-08.

5. Strategic Sourcing Update

Strategic Sourcing is a private contractor-managed effort to leverage the State's buying power to facilitate bulk purchasing. The Administration's Strategic Sourcing concept involves analyzing what the state is buying, market conditions, and potential suppliers, and then leveraging purchases for the best deal.

One way in which DGS has recognized savings was through the establishment of State-defined standard for technology, also known as common configurations. The state's Chief Information Officer Council selected these configurations, a first in the state's history of IT procurement. The common configurations are expected to simplify technical support, streamline processes, and create greater interoperability.

Control Section 33.50 of the 2005 Budget Act provides the current statewide authority for the Administration's Strategic Sourcing initiative. That control section states the following:

SEC. 33.50. Notwithstanding any other provision of law, the Department of Finance is authorized to periodically reduce amounts in items of appropriation in this act for the 2005-06 fiscal year to reflect savings resulting from California's Procurement Initiative for the 21st Century. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee at least 30 days prior to reducing any item of appropriation. The notice shall include, but is not limited to: (a) identifying which department received the savings; (b) identifying when and how the savings were achieved; (c) identifying the types of goods and services as to which savings were achieved; and (d) describing the methodology used to calculate the savings.

This current year budget language is not included in the 2006-07 budget bill.

Staff Comment: In the 2005-06 Governor's Budget, the Administration assumed that it could generate $96 million in savings in 2005-06. This target was later eliminated in the 2005 Budget Act, in part because the Administration recognized that any savings realized could be better used by departments to meet their $100 million in unallocated reductions target for the current year.

According to DGS, expected savings from Strategic Sourcing are estimated at $171 million over the next three years. Savings are expected to occur across multiple categories, including office supplies, computers, servers, copiers, and pharmaceutical purchases. However, these savings are hard to confirm, largely because of the difficulty in verifying that identified Strategic Sourcing savings might not have otherwise occurred.

The perspective that Strategic Sourcing savings could be used by departments to meet their $200 million in unallocated reductions for the budget year has again been suggested by the Administration. Were it possible to verify their existence, then certainly identifiable savings from contracts would be a more straightforward way to recognize departmental savings, as opposed to a blanket $200 million unallocated reduction.

While savings have been minimal and difficult to verify, the intent of the current year budget bill language remains valid and should be preserved as a means to identify strategic sourcing savings, in particular as they offset unallocated reductions.

A better means to apprise the Legislature of Strategic Sourcing savings would be to have DOF report to the Legislature on amounts paid to the CGI-AMS contract and reduce appropriations as contract payments are made. According to the contract, DGS must pay CGI-AMS approximately 10.5 percent of the realized savings. The following budget bill language would tie these payments to reductions in appropriations.

SEC. 33.50. Notwithstanding any other provision of law, the Department of Finance shall periodically reduce amounts in items of appropriation in this act for the 2006-07 fiscal year for all savings tied to contractor payments for California's Procurement Initiative for the 21st Century. The Director of Finance shall report quarterly to the Chairperson of the Joint Legislative Budget Committee on payments to the contractor hired for the Procurement Initiative for the 21st Century and at least 30 days prior to reducing any item of appropriation. The notice on reducing appropriations shall include, but is not limited to: (a) identifying which department received the savings; (b) identifying when and how the savings were achieved; (c) identifying the types of goods and services as to which savings were achieved; and (d) describing the methodology used to calculate the savings.

Staff Recommendation: Adopt Control Section 33.50 (above) and request the Administration report on estimated savings during the budget year by department.

VOTE:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, April 20, 2006
9:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

Select Business & Transportation Departments

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Departments with Issues Proposed for Vote-Only

2120 Alcoholic Beverage Control Appeals Board

The Alcoholic Beverage Control Appeals Board (Board) was heard by the Subcommittee on March 8. The Board did not submit any Budget Change Proposals (BCPs) and the Subcommittee approved the Board's budget. The Administration has since submitted the following April Finance Letter request:

1. **One-Time Retirement Costs (Finance Letter #1).** The Administration requests a one-time budget augmentation of $34,000 (special fund) for costs associated with the Board's Chief Counsel in 2006-07. These costs were initially budgeted in the Budget Act of 2005, but were not incurred due to a delay in the Chief Counsel's retirement date. The Administration indicates these costs cannot be absorbed due to the small size (9.0 positions) of this organization.

   Staff Recommendation: Approve the request.

   Vote:

2310 Office of Real Estate Appraisers

The Office of Real Estate Appraisers (OREA) was heard by the Subcommittee on March 8 and all Governor's Budget requests were acted upon. The Administration has submitted the following April Finance Letter request:

1. **Reduction for Attorney General Costs (Finance Letter #1).** The Administration requests a budget reduction of $259,000 (special fund) to align budgeted resources for attorney costs with actual expenditures. This would correct a previous miscalculation in the amount needed for payments to the Attorney General.

   Staff Recommendation: Approve the request.

   Vote:

2320 Department of Real Estate

The Department of Real Estate was heard by the Subcommittee on March 8th and the following Budget Change Proposal (BCP) issue was left open (no April Finance Letters were submitted for the Department):

1. **Operating Expense and Equipment Augmentation (BCP #7).** The Department requests an ongoing augmentation of $2.3 million for unfunded increases in off-site examination facilities ($647,000), credit card costs ($36,000), postage ($193,000) and Office of Administrative Hearing costs ($1,466,000).

   Detail:

   - **Off-site examination facilities** – DRE indicates the quantity of applicants scheduled for exams has increased 300 percent since 2000-01 and a temporary baseline augmentation of $143,000 for 2005-06 and 2006-07 has not been sufficient to cover the costs.
   - **Credit Card Costs** – DRE began accepting credit card payments for all DRE license fees in 2000 and has since expanded to now accept credit card payments for exam fees. DRE received a temporary baseline adjustment of $200,000 for 2005-06 and 2006-07; however, credit card fees are expected to total $501,000 in 2006-07. The estimated 2006-07 shortfall is $36,000 and the 2007-08 shortfall is $267,000 (due to the expiring limited-term authority).
   - **Postage Costs** – DRE reports a postage shortfall of $193,000. Postage expenditures grew 91 percent from 2001-02 to 2004-05. This increase is driven by the volume of mailings, not the increased cost of postage (which is separately augmented in the budget).
   - **Office of Administrative Hearings –** DRE reports that the number of disciplinary cases filed with OAH has increased over 50 percent and the hourly rate for Administrative Law Judges has increased 11 percent since 2001-02 without a funding augmentation.

   Staff Comment: The Subcommittee kept this issue open and directed staff to work with the Department to reconcile and justify related augmentations made in last year's budget. Last year, the Administration made some related budget augmentations as baseline adjustments and did not provide a BCP. Since the hearing, the Administration has provided detail on last year's changes, and the changes made last year do not conflict with, or duplicate, this year's request.

   Staff Recommendation: Approve the request.

   Vote:

2700 Office of Traffic Safety

The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to State and local entities to promote traffic safety. The office administers the California Traffic Safety Program and will distribute approximately $78 million of federal grant funds in 2006-07 to local and State agencies. The grants provided by OTS focus on the nine priority areas of traffic safety: (1) alcohol and drugs; (2) occupant protection; (3) pedestrian and bicycle safety; (4) traffic records; (5) emergency medical services; (6) roadway safety; (7) police traffic services; (8) motorcycle safety; and (9) speed control.

The Governor proposes total expenditures of $85.2 million (no General Fund) – an increase of $242,000 from the current year. The Administration did not submit any Budget Change Proposals for the Office of Traffic Safety.

Staff Comment: No issues have been raised with the Office of Traffic Safety budget.

Staff Recommendation: Approve the budget.

Vote:

Departments with Budgets Proposed for Discussion

2100 Department of Alcoholic Beverage Control

The Department of Alcoholic Beverage Control (ABC) was heard by the Subcommittee on March 8th and all Governor's Budget requests were acted upon. The Administration has since submitted an April Finance Letter request (see issue #1). Additionally, the Administration has revised the ABC's fund condition statement, and this may warrant reopening an issue which the Subcommittee rejected due to concerns of insufficient funds (see issue #2).

Discussion / Vote Issues

1. **Licensing and Compliance System (LCS) –Funding (Finance Letter #1).** The Administration requests an augmentation of $635,000 (special fund) in 2006-07 to reflect a delay in encumbering funds for the LCS information technology project, which was originally approved by the Legislature with the 2004-05 Budget Act. Litigation by an unsuccessful bidder will delay the award of the contract into 2006-07. The new system is replacing the existing 1993 system (the California Alcoholic Beverage Information System (CABIN)), which faces both hardware and support limitations, and limits new functionality.

   Staff Comment: Staff understands that the Administration anticipates additional changes to this request through a May Revision Finance Letter, and that the Administration would support rejection of this item due to the pending May Letter.

   The Administration is not using the normal "reappropriation" budget treatment for this request. Instead they would augment the 2006-07 appropriation and assume increased savings in 2005-06. A more standard treatment would be a budget act reappropriation, which includes a technical reduction to 2005-06 spending authority.

   Staff Recommendation: Reject the proposal – at the request of the Administration. The Administration will update the funding request, if necessary, with the May Revision.

   Vote:

2. **Grant Assistance Program (GAP) Augmentation (BCP #2).** The Department requests an augmentation of $1.7 million (special fund) and 3.0 positions to increase the Department's grants to local law enforcement agencies to $3.0 million. This would double the number of grants awarded from about 20 to about 40. The state operations funding of $248,000 would fund three new Investigator II positions to supervise and consult with the new local law enforcement entities that receive the grants. With the three new staff, a total of 12 staff would administer this program. Assembly Bill 428 (Chapter 428, Statutes of 2005, Gordon), found that the GAP program was a successful law enforcement program and that annual funding should be no less than $1.5 million and no more than $3.0 million.

Staff Comment: The Subcommittee heard this issue at the March 8 hearing and rejected it because the Governor's Budget revenue numbers suggested that Department revenue was not sufficient to sustain the augmentation over multiple years. Since the hearing, the Administration has revised the ABC fund condition as indicated in the following table, which includes the BCP requests ($ in millions):

	2005-06	2006-07	2007-08	2008-09	2009-10
2006-07 Governor's Budget					
Revenues and Transfers	$45.1	$45.6			
Expenditures (including 2006-07 BCPs)	$44.4	$50.8			
Year-end Fund Balance	$12.0	**$6.8**			
Administration's Revised Estimates					
Revenues and Transfers	$45.6	$46.1	$46.7	$47.2	$47.8
Expenditures (including 2006-07 BCPs)	$43.7	$48.8	$48.9	$48.8	$48.8
Year-end Fund Balance	$13.3	**$10.6**	$8.3	$6.8	$5.8

The new estimates reflect an additional $500,000 in annual revenue and a combined decrease in 2005-06 and 2006-07 expenditures of $2.7 million. The 2006-07 expenditure savings is not reflected in the requested budget expenditure authority, but is assumed savings. A Staff analysis suggests that with the new revenue and expenditure assumption, and considering the statutory authority to adjust fees with the Consumer Price Index, the ABC should be able to continue the higher level of GAP grants requested.

The Subcommittee also rejected an overtime request (BCP #1), partially due to fund concerns. The LAO had recommending rejecting this request due to insufficient justification of the workload need. Staff recommends that this request not be reopened (the rejection of this request at the March 8 hearing would stand).

Staff Recommendation: Vote to reopen the GAP funding request (BCP #2) that was rejected at the March 8th hearing, and vote to approve the request.

Vote:

2150 Department of Financial Institutions

The Department of Financial Institutions (DFI) was heard by the Subcommittee on March 8 and the following issue was left open (no April Finance Letters were submitted for the Department):

Discussion / Vote Issue

1. **California Financial Information Privacy Act (SB 1) (Staff Issue).** The 2004 Budget Act included provisional language that required the DFI to report to the Legislature by January 10, 2006, on the Department's implementation of the California Financial Information Privacy Act (as enacted by SB 1, Chapter 241, Statutes of 2003, Speier). The report suggests that the actual workload has been significantly less than anticipated. However, the Governor's Budget makes no adjustments to SB 1 funding and positions.

   Background: DFI submitted a BCP in 2004 requesting 17.0 positions to implement SB 1. The Legislature approved reduced staffing for a complaint-driven process, 6.0 positions were approved for DFI.

   Staff Comment: At the March 8 hearing, the Subcommittee directed staff to work with DFI to develop and cost-out staffing alternatives that would reduce the Department's SB 1 staffing by four to six positions. The Department has presented a revised budget proposal that is also supported by the Department of Finance.

   Revised DFI Staffing Proposal: The DFI has submitted a BCP-type document explaining and justifying the following adjustments, which result in no net change to funding or positions relative to the Governor's Budget:
   - Retain two Examiner positions to perform SB 1 workload – all audited firms would be checked for SB 1 compliance.
   - Retain one Counsel position, which would primarily perform new workload related to the Bank Security Act and other litigation matters, but would also spend about 20 percent of work hours on SB 1 issues.
   - Redirect three SB 1 positions to the Special Licensees Program. This program enforces laws and regulations related to the money transmitter industry. The number of money-transfer transactions has increase 212 percent from 2000 to 2005 (from 10.9 million transactions to 34.1 million). There has been a concurrent increase in the number of money transfer firms, the number of DFI exams, and enforcement actions; but no increase in approved positions. DFI has been utilizing three retired annuitants to assist with the increased workload, but has still been unable to address all workload issues.

   Staff Recommendation: Approve the revised DFI staffing proposal.

   Vote:

2180 Department of Corporations

The Department of Corporations (Corporations) was heard by the Subcommittee on March 8 and the following issues were left open (no April Finance Letters were submitted for the Department):

Discussion / Vote Issue

1. **California Financial Information Privacy Act (Staff Issue).** The 2004 Budget Act included provisional language that required Corporations to report to the Legislature by January 10, 2006, on the Department's implementation of the California Financial Information Privacy Act (enacted by SB 1, Chapter 241, Statutes of 2003, Speier). The report suggests that the actual workload has been significantly less than anticipated. However, the Administration requests to keep all the existing SB 1 funding and positions.

   Background: Corporations submitted a BCP in 2004 requesting 22.0 additional positions to implement SB 1. Corporations proposed to audit all firms for SB 1 compliance during their regular audit visit. The Legislature approved reduced staffing for a complaint-driven process –10.0 positions were approved.

   Staff Comment: At the March 8 hearing, the Subcommittee directed staff to work with Corporations to develop and cost-out staffing alternatives that would reduce the Department's SB 1 staffing by eight to ten positions.

   Staff Recommendation: Hold action on this issue, and take a combined action after considering Issue #2 on the following page.

2. **Elimination of Investigator Positions (Staff Issue**). In 2003-04, Corporations eliminated all 14.0 of its Investigator positions as part of the 2003 Budget Act Control Section 4.10 process which required a statewide reduction of 16,000 permanent positions, as specified. Newspaper reports indicate that the cases the Department referred for criminal prosecution declined from 27 in 2002 to none in 2004. Without Investigator positions, this function falls to local law enforcement and the State Attorney General, who received no additional funds to perform this activity. Since the elimination occurred through Control Section 4.10, the Legislature did not consider this reduction through the Budget Subcommittee process, and no public discussion occurred on the affect these reductions would have on consumer protection.

Recent Legislative Action: Last year, Senator Speier, Chair of Banking, Finance, and Insurance Committee and Assemblymember Ron Calderon, Chair of the Banking and Finance Committee requested that the Joint Legislative Audit Committee approve a Bureau of State Audits study of Corporations activities. The audit was approved, but will not be complete until 2006-07.

Staff Comment: At the March 8 hearing, the Subcommittee directed staff to work with Corporations to develop and cost-out staffing alternatives that would partially or fully restore the Investigative function to the Department.

Revised Corporations Staffing Proposal: The Department has submitted a BCP-type document explaining and justifying the following adjustments, which shift positions approved for SB 1 workload to general enforcement / investigative workload (see also Issue #1 on the prior page) and result in no net change to funding or positions relative to the Governor's Budget:

- Maintain one Examiner position for SB 1 workload.
- Officially recognize that 9 of 10 positions originally established for SB 1 workload have been redirected to perform general enforcement work due to a low level of realized SB 1 workload.
- Reclass three of the nine positions to Investigators. This would restore the "Investigator" classification and function to the Department.

The Department justifies retaining these "SB 1" positions which have been performing non-"SB 1" enforcement work, by citing an increase in the level of enforcement activity: the number of Desist and Refrain Orders increased from 88 in 2004 to 142 in 2005; and the number of Administrative Actions increased from 65 in 2004 to 99 in 2005. Additionally, the reclassifications to create three Investigators would allow the Department to identify fraud while it is occurring versus after a consumer has lost money and to ensure compliance with Desist and Refrain Orders.

Staff Recommendation: Approve the revised DFI staffing proposal. (This action covers both Issues #1 and #2)

Vote:

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created in 1996 to direct the development and implementation of inter-city high-speed rail service. The HSRA has completed its business plan, initial financial plan, and a program environmental impact report (EIR). Current law places a proposition on the November 2006 ballot to provide $9.95 billion in general obligation bonds for high-speed rail and related rail projects. The total cost to build the entire system was most-recently estimated at $37 billion.

The Governor proposes $1.3 million (Public Transportation Account) in total expenditures for the HSRA, a decrease of $3.9 million from the current-year budget. The decrease is due to the completion of projects with one-time funding – specifically two projects were funded in the 2005 Budget Act: a "next-tier" program EIR on the Central Valley to Bay Area route alignment and an updated financial plan.

Discussion / Vote Issue

1. **Bond Funding for High-Speed Rail / 2006-07 Budget.** The Governor's January 2006 Strategic Growth Plan includes no bond funding for high-speed rail and assumes the enactment of legislation to remove the $9.95 billion rail bond from the November 2006 ballot.

   Staff Comment: Given the uncertainty related to bond funding for the high-speed rail project, it is difficult to assess the HSRA budget need for 2006-07. The following are some scenarios for HSRA activity and funding:

   - <u>Governor's Budget ($1.3 million)</u> – removes one-time funding, but doesn't further evaluate or "zero-base" the continuing activity for the HSRA.
   - <u>Next Steps to Construction ($1.3 million plus)</u> – the HSRA 2005 Implementation Plan includes the following next steps: develop Authority staffing plan and scope-of-work for program management team; pre-qualify train system suppliers, begin project-specific EIR.
   - <u>Zero-Based Budget ($800,000)</u> – rebases the HSRA budget to remove operating expenses and equipment funding that would not seem necessary if the HSRA is not working on EIRs or other special projects.
   - <u>Eliminate the HSRA (no funding)</u> – under this option the HSRA would be eliminated with the assumption that a similar organization would be reestablished in the future if the State decides to construct a high-speed rail system.

   LAO Recommendation: The LAO recommends adding provisional budget language that would revert any unexpended 2006-07 appropriation upon enactment of legislation that would postpone, indefinitely, a high-speed rail bond.

   Staff Recommendation: Keep the HSRA budget open, more information may be available on the bond at the time of the May Revision hearing.

2720 California Highway Patrol

The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

The Governor proposes $1.575 billion in total expenditures for the CHP, an increase of $124 million and 339 positions from the current-year budget. These figures do not include Finance Letter proposals submitted by the Administration on March 30, 2006.

Vote-Only Issues

1. **Reduction for Insurance Costs (April Finance Letter).** The Administration requests an ongoing budget reduction of $1.2 million (various special funds) to reflect the revised self-insurance assessment for CHP vehicles.

   Detail: The Department of General Services' Office of Risk and Insurance Management manages the State Motor Vehicle Insurance Account and collects assessments from each State agency based on that particular agency's claim experience over the past five calendar years. The CHP assessment is falling from $6.2 million to $5.0 million in 2006-07.

   Staff Recommendation: Approve this request.

   Vote:

2. **Removal of Underground Storage Tanks (BCP #4).** The Administration requests an ongoing augmentation of $1.5 million (Motor Vehicle Account) to increase the number of fuel tanks converted annually from underground to aboveground. The base funding for fuel tank activity is $2.2 million and this augmentation would increase the number of tanks converted from 6 to 11 per year.

   Detail: The BCP indicates that the CHP currently maintains 93 underground fuel storage tanks and 22 aboveground storage tanks. The tanks allow the Department to purchase fuel in bulk and save approximately 30 cents per gallon. The conversion of tanks from underground to aboveground is thought to reduce environmental damage caused by leaking tanks. The CHP indicates that the conversion of 11 tanks per year is the maximum the Department of General Services can accommodate.

   Staff Comment: Over the past decade, the Department of Transportation similarly converted its underground fuel storage tanks to aboveground tanks.

   Staff Recommendation: Approve this request.

   Vote:

3. **Capital Outlay Projects (various BCPs).** The Administration requests $5.7 million in 2006-07 funding for capital outlay projects with a total cost of about $40 million (Motor Vehicle Account). The projects are as follows:

   - Santa Fe Springs Area Office: Working drawings at a cost of $709,000 for a new office that would also have construction costs of $9.7 million.
   - San Diego Area Office: Working drawings at a cost of $169,000 for a renovation project that would also have construction costs of $2.6 million.
   - Oceanside Area Office: Land acquisition and preliminary plans at a cost of $2.8 million for a replacement facility that would also have future working drawing and construction costs totaling about $14 million.
   - Oakhurst Area Office: Land acquisition and preliminary plans at a cost of $1.1 million for a replacement facility that would also have future working drawing and construction costs totaling about $7.5 million.
   - Academy Outdoor Track Replacement: Plans and construction at a cost of $945,000 to replace the running track at the CHP's training academy.
   - Studies, Pre-Planning, and BCP Development: Develop future capital outlay proposals at a cost of $50,000.

   Staff Recommendation: Approve this request.

   Vote:

4. **Workers' Compensation & Disability Retirement Case Management (BCP #3).** The Administration requests an ongoing increase of $652,000 (Motor Vehicle Account) and seven non-uniformed positions to address workers' compensation and disability retirement case management.

Detail: The BCP indicates that the CHP currently has five Disability Retirement Section (DRS) employees providing service on 6,552 workers' compensation claims. The requested augmentation would reduce caseload per staff from 1,310 to 727, which the CHP indicates is still twice the average workload for other large departments. The current annual expenditures related to workers' compensation and disability retirement claims are approaching $70 million annually. The CHP indicates that more proactive management of these claims could reduce costs. Note, the Disability Retirement Section is separate from the Workers' Compensation Fraud Investigations Unit which was reestablished by the CHP Commissioner two years ago.

Staff Recommendation: Approve this request.

Vote:

Discussion / Vote Issues

1. **Motor Vehicle Account – Fund Condition (Informational Issue).** The Administration is requesting approval for CHP and Department of Motor Vehicles budget augmentations that will total close to $1 billion over a six-year period. Staff asked the Administration to demonstrate with a long-term Motor Vehicle Account (MVA) fund condition statement, whether these augmentations can be sustained without a fee increase. The table below was supplied by the Administration and indicates existing fee revenue is sufficient to support these requests.

	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Beginning Reserve	$548,677	$623,249	$780,795	$953,081	$1,126,095	$1,320,874
Total Revenues	2,105,253	2,281,500	2,369,000	2,473,000	2,580,500	2,673,930
Transfers to/from other funds	591	591	591	591	591	591
Total Resources	$2,654,521	$2,905,340	$3,150,386	$3,426,672	$3,707,186	$3,995,395
Total Expenditures	$2,000,793	$2,108,836	$2,177,358	$2,269,558	$2,363,067	$2,453,591
Reserves Estimate	$653,728	$796,504	$973,028	$1,157,114	$1,344,119	$1,541,804
06/07 Finance Letters	30,479	15,709	19,947	31,019	23,245	21,387
Reserve Est. after BCPs	**$623,249**	**$780,795**	**$953,081**	**$1,126,095**	**$1,320,874**	**$1,520,417**
Cost of initiatives to be considered over the next five years:						
Public safety enhancements						
▶Out-year costs of 2006-07 BCPs (Radios and 240 CHP Officers)		$741,764				
▶Future public safety enhancements		$286,295				
▶REAL ID		$382,281				
▶DMV Customer Service and Technology Upgrades		$80,320				
▶Biometrics and DL/ID		$42,437				
▶DMV Credit Card Fees		$63,054				
▶Facilities, repairs and maintenance		$116,918				
▶ARB Hydrogen Highway		$53,500				
TOTAL		**$1,766,569**				

Staff Comment: The Department of Finance or the Business and Transportation Agency should be prepared to discuss the MVA fund condition and the assumptions behind the estimates. Note the 2007-08 through 2011-12 fund reserve estimates do not include the out-year costs of 2006-07 BCPs ($742 million) and Real ID costs ($382 million). If those items are incorporated, the fund balance no longer grows over time but would actually fall from 2006-07 through 2011-12.

Staff Recommendation: Informational issue, no action necessary.

2. **Building Security at State Buildings (Informational Issue).** At the April 6, 2006, hearing, Subcommittee #4 discussed the issue of State building security in the context of the Department of General Services (DGS) budget. DGS has requested $1.2 million ongoing (Service Revolving Fund) for increased security costs at five State buildings. These additional expenses are based on reduced service commitments by the CHP at the Ronald Reagan building and other minor cost increases at four other State buildings. DGS will fund these security augmentations through an assessment on building tenants.

   Staff Comment: The State has no standard security requirement for its buildings. The California Highway Patrol may provide a security assessment and recommendation, but there is no central security oversight or advisor. Departments ascertain, by themselves, what the best level of building security is for their facility. DGS prepares a cost estimate and presents it to the tenant or tenants.

   Requests for security augmentations since 9/11 have occurred on a piecemeal basis and there is neither a minimum nor a maximum level of expenditures that a department may devote to building security. Security enhancements can be very expensive. It has been estimated that outfitting all state-owned buildings with x-ray scanners would cost between $40 and $50 million. To the extent that departments do enhance their building security, they either absorb the cost or request an augmentation.

   The CHP should be prepared to discuss the following:

   a. For State buildings – what is the involvement of the CHP in providing security and determining the appropriate level of security?
   b. For leased facilities occupied by State workers – what is the involvement of the CHP in providing security and determining the appropriate level of security?
   c. What level of security does the CHP generally recommend for State buildings and leased facilities relative to placement of security guards, metal detectors, etc.?
   d. What are the emerging issues in building security and the anticipated costs?

   Staff Recommendation: Informational issue – no action necessary.

3. **Freeway Services Patrol (April Finance Letter).** The Administration requests an ongoing increase in reimbursement authority of $800,000 (from the State Highway Account) to reflect the CHP's component of the Department of Transportation's (Caltrans) Freeway Services Patrol program. Coinciding with this request, Caltrans is requesting an increase in expenditure authority of $6.2 million to expand the program.

    Detail / Background: The purpose of the Freeway Services Patrol (FSP) program is to reduce highway congestion by more quickly clearing disabled vehicles from the roadway or roadside. The FSP program consists of a contracted fleet of tow trucks which continuously patrol designated routes throughout the major urban areas of the state. The CHP's role is to investigate FSP tow truck driver related complaints and ensure that the drivers patrol their assigned beats per the terms and conditions of their contract. The Finance Letter indicates that the average statewide benefit/cost ratio is 8.7 to 1 and that the program assists 650,000 motorists annually.

    The base FSP program expenditure level is $23 million – which includes a $2 million augmentation by the Legislature last year. Of the $23 million base, $3.2 million is currently transferred to the CHP to reimburse costs. This request (along with the corresponding Caltrans Finance Letter) would bring the total State cost to $29 million and CHP reimbursement to $4 million. Separately, the CHP notes that some local agencies supplement Caltrans funding, and provide additional reimbursements to the CHP. The Finance Letter indicates the augmentation will allow an additional 108,000 hours of tow-truck service and provide approximately 90,000 assists.

    Staff Comment: It is unclear to staff how the Administration determines the optimal level of CHP oversight for this program. The CHP cost is significant, in the range of 15 percent. The Department does not track individual FSP tasks and is unable to indicate, for example, how many hours were spent last year following up on complaints against tow-truck drivers. The CHP should be prepared to discuss more specifics about the marginal value added by the CHP from the $800,000 versus the value added if more of the funding is used to expand tow truck hours. For example, $800,000 would fund approximately 16,000 additional tow-truck hours, and 13,000 assists.

    Staff Recommendation: Keep this issue open and take action for both Caltrans and the CHP, when this issue is heard with Caltrans.

4. **Additional CHP Officers (BCP #1).** The Administration requests an augmentation of $33.7 million (Motor Vehicle Account) for partial-year funding of 240 new uniformed officers and full year funding for 70 supervisory and nonuniformed staff. The cost in 2007-08 and thereafter would be $41.9 million.

   Detail / Background: The need for additional CHP officers is supported by CHP data and prior-year LAO findings. According to the LAO, additional staffing is particularly necessary to CHP divisions that have seen recent large increases in vehicle registrations and highway travel. In addition, the LAO points out that the pace of growth for vehicle collisions throughout the divisions have far outpaced officer hiring between 2000 and 2004.

   Legislative Analyst Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the proposal be approved, but that the 2006-07 funding be decreased by $3.2 million. The LAO indicates the budget provides $3.2 million more than what is necessary to fund the proposed staffing increase. This is the result of the budget not taking into account the reduced salaries of the new officers while in cadet school.

   The CHP and the Department of Finance agree that the funding should be reduced by $3.2 million to take into account the cadet pay of the new officers.

   Staff Recommendation: Approve the proposal, reduced by $3.2 million.

   Vote:

5. **Additional 9-1-1 Call Center Dispatchers (BCP #7).** The Administration requests $6.4 million (Motor Vehicle Account) for the partial-year cost of 173 new positions to staff the 9-1-1 call centers – specifically, 156 Public Safety Dispatcher II positions and 17 Supervisor positions are requested. Full year cost for these positions in 2007-08 would be $10.5 million.

   Detail: In additional to the 173 positions, the BCP indicates that the Department would add an additional 156 positions in 2007-08. In total, the Administration proposes to double the size of the call-taking staff from 325 to 654 over a two-year period. The ongoing annual costs for the 329 positions will be about $19 million. The Department indicates that the authority for the additional 156 positions is not included in this request; therefore, a separate BCP will be submitted next year if the Administration decides to move ahead with the full staffing plan.

   August 2004 State Auditor's Report: The State Auditor touched on 911 staffing in its report, *Wireless Enhanced 911: The State Has Successfully Begun Implementation, but Better Monitoring of Expenditures and Wireless 911 Wait Times is Needed*. The Auditor had the following four findings related to the CHP:

   - Most CHP centers do not have systems to monitor how long they take to answer 911 calls, and more than half the centers that tracked wait times did not meet the State's goal to answer 911 calls within 10 seconds. (Staff note: the CHP has had call tracking technology at all of its 911 call centers since November 2005).
   - Wait times were high, in part, because dispatchers at CHP centers handled significantly more 911 calls per dispatcher than did local answering points we contacted.
   - Unfilled dispatcher positions at CHP centers contributed not only to longer wait times but also to significant overtime costs for the CHP.
   - The CHP does not expect the number of wireless 911 calls diverted to local answering points to exceed 20 percent statewide.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the proposal for new call center staff be held open, and that the Administration resubmit the proposal with the May Revision. The LAO suggests the new proposal be based on the automated call-accounting data for all medium and large centers and that other center-dependent variables also be taken into consideration. The LAO is concerned that, while a staffing augmentation is warranted, the proposal is not based on reliable data. The CHP has only had call accounting data at all call centers since November, 2005.

   Staff Comment: The CHP has been working with the new available data and hopes to have the results available within a few weeks.

   Staff Recommendation: Keep this issue open pending revised data from the CHP.

6. **Augmentation for Fuel Costs (BCP #5).** The Administration requests an ongoing augmentation of $2.7 million for higher fuel costs. Note, the CHP received a $5.2 million ongoing augmentation for fuel costs with the 2005 Budget Act. The base funding level assumes a weighted average fuel cost of $2.33 per gallon, and this year's request assumes a weighted average fuel cost of $2.56 per gallon (excluding aircraft fuels).

   Staff Comment: Caltrans also submitted a fuel-price BCP, which the Subcommittee approved on March 30. The Caltrans request assumed 2006-07 fuel prices averaging $2.33 per gallon. The Governor's Budget forecast projected regular unleaded gasoline to average $2.31 per gallon in 2006-07. The CHP request is significantly higher; however, the gas price outlook has changed in recent months. The April 11, 2006, *U.S. Motor Gasoline Summer Outlook Path* from the federal Energy Information Administration, Department of Energy, projects retail gasoline prices averaging $2.62 in the second and third quarters of 2006. Given the current outlook, the CHP's request seems in a reasonable range, but the Subcommittee may want to revisit funding in future years if gasoline prices return to levels averaging below $2.50 per gallon.

   Staff Recommendation: Approve the request.

   Vote:

7. **Enhanced Radio Communications (BCP # 2).** The Administration requests approval of a five-year project with a total cost of $494 million (all Motor Vehicle Account, $57.1 million would be expended in 2006-07) to replace the CHP's radio communications hardware and software.

Detail / Background:

- **Identified Problem:** The CHP indicates its current radio system is 25 years old and replacement parts are not available because they are no longer being manufactured. Additionally, the CHP cannot custom order new parts because the system is proprietary. The identified risk of keeping the existing system is communications outages when equipment fails. To the degree failed equipment is replaced with new technology on an ad-hoc basis, new risk is created for communication breakdowns between new and old technologies. Another identified problem is that the current system constrains the addition of new frequencies to improve operability (within the CHP) and inter-operability (CHP communications with other State, federal and local entities).
- **Improvements with the Proposed System:** The Department indicates the proposed system would use open architecture and proven technology, and there is little risk the system would not work. Additionally, the CHP cites the following improvements with the proposed systems:
  - Allow Communications Centers to separate the emergency and non-emergency operations during peak and critical times.
  - Enable radio interoperability with other public safety agencies without impacting normal patrol operations.
  - Provide the Communications Centers the ability to communicate with any CHP mobile unit anywhere in the state.
  - Allow for additional operational channels for radio interoperability with allied agencies.
  - Provide Officers the ability to communicate at a greater distance away from their enforcement vehicles (from 400 to 500 feet to one to two miles with the new system).
- **Implementation Strategy**: The BCP identifies four main categories of activity over the five-year implementation:
  - Replace patrol vehicle equipment at the pace of two districts per year beginning in 2006-07. The annual cost is approximately $34 million ($167 million total).
  - Replace portable equipment in three years, beginning in 2006-07. The annual cost is approximately $16 million ($50.1 million total).
  - Replace tower equipment and erect new towers. The Department of General Services would assess this need in 2006-07 along with other oversight activities at a cost of $6 million. New equipment would be purchased and installed in 2007-08 through 2010-11 at a total cost of $211 million.
  - DGS design and oversight. The five-year cost is estimated at $66 million.

- **Statewide Strategic Communications Plan:** The State has been working for over a decade to design a comprehensive emergency-communication system. In 1994, the CHP, along with nine other public safety agencies and the Department of General Services (DGS), initiated a study called Public-Safety Radio Integrated Systems Management (PRISM). The PRISM effort produced a cost estimate of $3.5 billion in 1997. The high cost delayed action and technology continued to change. Currently, the Office of Emergency Services chairs the Public Safety Radio Strategic Planning Committee (PSRSPC). In January 2006, the PSRSPC released a status report which is the “first phase in the strategic plan for a newly envisioned statewide approach.” The January report supports a phased approach with “immediate stop-gap solutions,” including the CHP’s proposal. The PSRSPC will release the new Statewide Strategic Plan in January of 2007. However, the Office of Emergency Services indicates that the January 2007 plan will not conflict with this year’s CHP request.
- **Risks and Unknowns:** In addition to the risks associated with maintaining the current CHP system, there are risks and unknowns associated with the proposed system.
  - The system is not classified as an “IT system” and therefore a Feasibility Study Report (FSR) was not prepared. The technical detail provided to date does not match that of an FSR.
  - The CHP has contracted out with a private vendor to examine the proposed enhancements and sample a limited number of towers and equipment. This review is not expected to be completed until April 28, 2006. The conclusions of the review could result in changes to the plan and cost estimates.
  - The BCP indicates the cost of new towers and new tower equipment will be $210 million; however, DGS will not complete a full survey of the approximately 300 remote radio sites until the end of 2006-07. Therefore the $210 million cost estimate is subject to change.

Staff Comment: The CHP’s existing system is old, risks failure, and inhibits improvements. There are also multiple risks and unknowns with the proposed system. The Subcommittee may want to consider only approving 2006-07 expenditures and require that the CHP return during the next budget cycle for the remainder of project funding. Next spring, the Legislature will have the benefit of a completed PSRSPC Strategic Plan; a revised project plan that incorporates the consultant’s recommendations, as applicable; and a new DGS estimate of the number of towers and the tower equipment that needs replacement. Given the more comprehensive information that would be available next year, the CHP should also be prepared to discuss what mobile equipment and portable equipment purchases could be delayed into 2007-08 without delaying the final project completion date.

LAO Recommendation: The LAO has identified an estimating error that overstates 2006-07 costs by $760,000 for the Independent Verification & Validation (IV&V) vendor. The Administration concurs with the need for this correction. The LAO also recommends that the Office of Emergency Services testifies at the hearing on: (1) the extent to which the proposed project supports the state’s interoperability goals –

without compromising CHP’s operational needs and (2) whether CHP’s proposal would hinder or complicate future development of other systems.

Staff Recommendation: Keep open, the vendor report may be available by the time of the May Revision hearing.

2740 Department of Motor Vehicles

The Department of Motor Vehicles (DMV) regulates the issuance and retention of drivers' licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

The Governor's Budget proposes total expenditures of $818 million, an increase of $47.3 million and 4.0 positions from the current-year budget. These figures do not include Finance Letter proposals submitted by the Administration on March 30, 2006.

Vote-Only Issues

1. **Facility Lease Relocations (BCP #3).** The Administration requests funding of $2.6 million in 2006-07 and $2.2 million ongoing (various special funds) to relocate seven field offices.

   Detail: The DMV has received six notices to vacate the leased space for the Clovis, Tracy, Fairfield, Quincy, Hollywood & Vine, and Bishop field offices. The King City field office facility is non-compliant with code requirements, and the Department of General Services will not renew the lease.

   Staff Recommendation: Approve the request.

   Vote:

2. **Capital Outlay (CO BCP 1, 2, &3).** The Administration requests a total augmentation of $18.0 million in Motor Vehicle Account funds for capital outlay projects. BCP #1 requests $15.7 million for asbestos abatement and office renovations for the fifth floor of the Sacramento DMV headquarters building. BCP #2 requests $2.2 million for asbestos abatement and office renovations for the sixth floor of the headquarters building, and for "building reskin." Additionally, the DMV requests $100,000 in capital outlay study funds for budget packages, special studies, and planning activities related to high priority capital outlay projects.

   Background: Three floors of the headquarters building have already been completed with funding provided through budget change proposals in prior years. After this year's request, the asbestos abatement work on the headquarters building will be complete.

   Staff Recommendation: Approve the request.

   Vote:

3. **Organ Donor – SB 689 Implementation (BCP #6).** The Administration requests $1.1 million (Motor Vehicle Account) to implement and administer Senate Bill 689 (Chapter 665, Statutes of 2005, Speier), which revised the procedures related to organ donor designation.

   Detail: Among other requirements, SB 689 requires DMV to collect organ and tissue donor designation information on its applications for drivers' licenses and identification cards rather than to provide a standardized form for a donor to mail to the California Organ and Tissue Donor Registry. DMV indicates SB 689 will increase processing and customer services workloads. The $1.1 million cost is in the range of the estimated cost discussed when SB 689 was deliberated.

   Staff Recommendation: Approve the request.

   Vote:

4. **Remittance System Replacement (BCP #5).** The Administration requests one-time funding of $5.4 million and ongoing funding of $523,000 (various special funds) to replace the remittance processing system that processes the payment of approximately $2.1 billion annually.

   Detail: The DMV indicates that the current system is seven years old and that the industry-standard life expectancy is five to six years. A system failure would result in the inability to meet banking standards for check sorting and encoding, and could delay the deposit of funds. The BCP notes that the new system would process three times the current volume of mail, and that new technologies would allow efficiencies equivalent to the work of eight personnel years –the Department proposes to retain these eight positions and redirect the staff to other critical workload.

   Staff Recommendation: Approve the request.

   Vote:

Discussion / Vote Issues

1. **Real ID Update (Informational).** Subcommittee #4 held a special oversight hearing with DMV to discuss the federal Real ID Act (the Act) on February 23, 2006. The Subcommittee may wish to ask the DMV to provide an update on any new information from the federal government and any changes in the Administration's implementation plan.

   Staff Comment: The DMV has submitted several Finance Letters with information technology requests that are partially justified based on Real ID implementation (Issues #2 and #3 below). Additionally, some new positions, consulting services, and facilities expenditures related to Real ID and included for 2006-07 in the materials the Department submitted in February, were not requested in April Finance Letters. The DMV should be prepared to indicated whether it now feels these activities can be deferred to 2007-08, absorbed in 2006-07, or whether discussions are still ongoing within the Administration for a May Finance Letter request.

   Staff Recommendation: Informational only – no action necessary.

2. **Document Imaging and Storage Replacement / Real ID Act (Finance Letter #2).** The Administration requests $4.0 million (various special funds) to replace 12 microfilm cameras with five high-speed digital scanners. These scanners will be used to scan approximately 72 million registration and driver license documents per year. The total cost of this equipment is $5.5 million and the DMV proposal includes the redirection of $1.5 million in existing budget authority. The Finance Letter indicates this equipment will help the DMV comply with Real ID document retention requirements.

   Background / Detail: The Finance Letter notes that this project was already under development when the Real ID Act was enacted in May 2005. The project was originally initiated due to the capacity limitations and the unreliability of the current camera system. However, now the camera replacement project's timeframes need to occur in 2006-07 so that it will be in place to support other requirements necessary to implement the Real ID Act in May 2008. Specifically, this request would provide the "backend infrastructure" that can interface with remote scanning of birth/legal presence documents required by the Act. The DMV indicates a 2007-08 budget request will also be necessary to add scanning equipment to the field offices.

   Staff Recommendation: Approve the request.

   Vote:

3. **Telephone Service Center Equipment Replacement / Real ID Act (Finance Letter #3).** The Administration requests multiyear funding of $11.4 million (various special funds - $3.4 million in 2006-07) to replace the existing telephony platform in DMV's Telephone Service Centers with a voice over internet protocol platform. This single virtual system will replace the existing nine independent telephony systems which have reached the end of their useful life and cannot grow to meet projected call demand.

   Background / Detail: The DMV indicates that the new system would create efficiencies by enabling the Department to balance the number of calls between call centers and would facilitate the management of call response by allowing the routing of calls by subject matter. The current system is at maximum capacity and will not be supported by the vender after 2008.

   The new system will accommodate the higher volume of calls anticipated with both SB 1500 (see issue #5 below) and the Real ID Act. The DMV is anticipating an additional 1.0 million to 1.4 million calls related to the Real ID Act alone. The current annual volume of calls is reported at 20 million – with 7 million handled by the automated Interactive Voice Response system and 13 million routed to DMV technicians.

   Staff Recommendation: Approve the request.

   Vote:

4. **Information Technology Modernization (Finance Letter #4).** The Administration requests 2006-07 funding of $2.1 million (various special funds) to begin an information technology modernization project with a total cost estimated at $242 million. While the Finance Letter is not explicit on this point, the DMV indicates that the current request would cover only year one. Expenditures beyond 2006-07 would require approval of a BCP next year for 2007-08.

Detail / Background: The DMV indicates it will take a multi-year incremental approach with "modular" progress – the intent is to migrate existing functions over to the new system over time such that some benefits are realized sooner and risk is reduced. The following are problems and solutions are noted in the Feasibility Study Report:

- **Limitations of the existing system:**
  a. Obsolete technical architecture – the existing system is a 40-year-old DMV-designed system which is "increasingly complex and difficult to maintain."
  b. Scarce system support resources – the existing system relies on expertise in obsolete programming languages which are no longer taught in schools and language-proficient staff are nearing retirement.
  c. Difficult for DMV to accommodate mandated changes – it will be increasingly difficult to modify the system for enhancements and mandated programs.
  d. System limitations place California at risk – the existing system places California at risk from an inability to provide timely data to federal and state entities responsible for enforcing laws and protecting the public.

- **Proposed solution:**
  a. Migrate user interface platforms to a centralized, Java-based, web-server architecture and migrate applications to proven industry-standard commercially-available software applications that are currently supported by the Department of Technology Services Data Center.
  b. Incrementally upgrade the technology by identifying "logical threads," such as: (1) vehicle registration renewals; or (2) personal identification cards; which would be converted to the new platform as individual modules. Individual modules would be completed and operational over a number of years.
  c. The proposed solution would address the limitations of the existing system listed above.

Staff Comment: Given the magnitude of this project and the difficulties the Department has experienced with past IT projects, the Subcommittee may want to consider additional reporting requirements.

Staff Recommendation: Keep open and direct Staff to work with the LAO and DMV to develop reporting language.

Vote:

5. **Electronic Insurance Verification – SB 1500 Implementation (BCP #1).** The Administration requests funding of $9.3 million for the second year of funding for the implementation of SB 1500 (Chapter 920, Statutes of 2004, Speier), which requires insurance companies to electronically report to the DMV and requires the DMV to establish a vehicle registration suspension program for vehicle owners that fail to provide evidence of insurance.

   Detail: The $9.3 million is proposed for a contract with a private vendor to implement the suspension program. The Administration has determined that a vendor-based solution is necessary in order to meet the October 1, 2006, deadline for implementing this program.

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the LAO supports the decision to use a vendor-based solution, though they are concerned about the total cost of the program. The Administration estimates that the entire cost of the vendor-based solution will be $42 million through 2008-09. However, the LAO notes that there will be significant costs for the State to assume full program responsibilities in 2009-10.

   Therefore, the LAO recommends that the DMV report at the hearing on the plan for resuming full administration of the suspension program, including timelines and start-up costs.

   Staff Comment: The DMV indicates that they are continuing to review the 2009-10 costs and workload, and will not have a good estimate until the program is implemented in 2006-07 and better data is available.

   Staff Recommendation: Approve the request.

   Vote:

6. **High-Risk Drivers / Driver Safety Branch - Staff Augmentation (Finance Letter #6).** The Administration requests ongoing funding of $219,000 and 29.7 positions to address workload for hearings, reexaminations, and administrative reviews of drivers who may pose a danger to public safety because of their physical condition or driving record. The majority of the cost for these positions would be covered by redirecting $1.3 million – the redirection is made possible from reduced use of overtime and temporary help services currently used for this same workload.

Background: Last year, the LAO expressed concern about the Driver Safety Branch and increasing delays in investigations and evaluations of potentially high-risk drivers by the DMV. The LAO noted that the DMV was not meeting statutory requirements for Driving Under the Influence (DUI) hearings. The LAO and DMV developed the following Supplemental Report language which was adopted by the Subcommittee:

On or before April 1, 2006, the Department of Motor Vehicles shall provide a report to the Chair of the Joint Legislative Budget Committee and the chairs of the budget committees of both houses of the Legislature on its short-, mid-, and long-term plans for addressing anticipated workload growth in the driver safety program. The report shall include the department's plans for meeting statutory requirements for administrative license suspension and negligent operator hearings, as well as scheduling timely evaluations of other high-risk drivers. The report shall also include an estimate of the department's additional resource requirements, if any, in carrying out these plans.

To develop a strategy to comply with the Supplemental Report Language, the DMV hired a consultant (with existing budget resources) and now submits this proposal to implement the recommendations of the consultant.

Detail: The DMV's Drivers Safety Branch administers high-risk driver cases in four areas: physical and mental impairment (P&M) – about 132,000 cases annually; Administrative Per Se (APS, or drunk drivers) – about 66,000 cases annually; negligent operators (Neg Op) – about 18,000 cases annually; and "other" – about 7,000 cases annually. The BCP indicates the case workload increased by 11 percent from 2000-01 to 2004-05, while budgetary reductions in 2003-04 and 2004-05 reduced Drivers Safety Branch staffing by 41 positions. DMV has compensated for this staff reduction by using more expensive overtime and temporary help resources. The Department indicates there are currently 308 positions assigned to this workload and that 30 additional positions are needed to address 2006-07 workload.

Staff Comment: The DMV indicates that with the proposed staffing, it will be able to meet statutory requirements related to high-risk drivers; however, the consultant report suggests the workload will continue to grow and additional staff increases may be needed in the future.

Staff Recommendation: Approve the request.

Vote:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Monday, April 24, 2006
4:00 p.m. or Upon Adjournment of Public Employment and Retirement Committee
Room 2040

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then calls for assistance from its neighbors.

Office of Emergency Services – Program Expenditures

	***Expenditures** (dollars in thousands)*				
Program	**2004-05**	**2005-06**	**2006-07**	**$ Change**	**% Change**
Support of Office of Homeland Security	$0	$0	$170,217	$170,217	n/a
Mutual Aid Response	17,339	20,557	16,522	-4,005	-19.5%
Plans and Preparedness	143,772	363,548	35,693	-327,855	-90.2%
Disaster Assistance	591,614	635,609	616,463	-19,146	-3.0%
Criminal Justice Projects	189,763	242,421	198,329	-44,092	-18.2%
CA Anti-Terrorism Information Center	6,700	6,700	6,811	111	1.7%
Administration and Executive	6,823	7,140	7,259	119	1.7%
Distributed Administration and Executive	-5,928	-6,234	-6,338	104	1.7%
Support of Other State Agencies			11,000	11,000	n/a
Office of Homeland Security	1,174	33,327	0	-33,327	-100.0%
Totals, Programs	**$951,257**	**$1,303,068**	**$1,055,95**	**-$247,112**	**-19.0%**
Total Authorized Positions	**431.7**	**505.9**	**497.1**	**-8.8**	**-1.7%**

Budget Request. The budget proposes total expenditures of $1.1 billion ($124.6 million General Fund, $897.7 million federal funds, $33.6 million special funds and reimbursements), a decrease of $247.1 million, or 19 percent, from the estimated current-year expenditures. The major reasons for the reduction include: creation of a separate budget item for the Office of Homeland Security, effective January 1, 2007 ($180.8 million); an adjustment to reflect updated disaster assistance payments ($17.4 million); and a reduction in federal criminal justice grants ($16.9 million). The majority of funding for OES is local assistance ($961.4 million).

April 1 Finance Letters Requests Proposed for Vote-Only

A. Consumer Price Index Adjustment to the Nuclear Planning Assessment Special Account.

Finance Letter Request. This Finance Letter proposes an increase from the Nuclear Planning Assessment Special Fund of $120,000, pursuant to Government Code Section 8610.5. This is an annual adjustment based on economic changes reflected in the California Consumer Price Index.

B. Adjustment to Reflect Updated Disaster Assistance Payment Projections

Budget Request. The budget proposes to reduce OES's General Fund disaster assistance authority by $19.6 million to reflect the latest local assistance payment projections and to remove authority for a one-time state operations augmentation related to the 2005 Southern California Winter Storms. The Subcommittee previously held this issue open pending additional information on the estimated costs for disaster response and recovery from the 2006 Winter Storms.

Finance Letter Request. This Finance Letter proposes an increase from the General Fund of $23.7 million to fund the estimated costs of response to, and recovery from disasters, including the recent federally-declared disaster known as the 2006 Winter Storms. This amount represents the state's share of the costs of disaster response and recovery, as defined in the California Disaster Assistance Act.

C. Federal Residential Substance Abuse Treatment Funding

Finance Letter Request. This Finance Letter proposes a decrease of $9.1 million in federal fund authority, to eliminate the Residential Substance Abuse Treatment (RSAT) funding that is no longer provided by the federal government.

Staff Recommendation. No issues have been raised regarding these requests. Staff recommends approval of these Finance Letter requests.

Action

Discussion Issues

1. Sexual Assault Felony Enforcement Grant Program

Budget Request. The budget proposes $6 million in General Fund support for Sexual Assault Felony Enforcement (SAFE) teams. This includes $5.7 million in local assistance, with the remainder used to support new OES staff to administer the program. Chapter 1090, Statutes of 2002 (AB 1858, Hollingsworth), authorizes these teams as partnerships between local, state, and federal law enforcement to: (1) proactively monitor habitual sexual offenders and (2) collect data to determine if proactive law enforcement is effective in reducing violent sexual assault offenses. No state appropriation accompanied the bill. This proposal would provide General Fund support to enhance existing local and regional teams and to establish programs in counties where they do not already exist. Funding would be allocated to counties with 200 or more registered sex offenders (about 40 counties) based on each county's proportionate share of the offending population.

Concerns Raised by the LAO. The LAO indicates that the administration was unable to provide even the most basic information regarding the proposed grants. The LAO reports that the administration was unable to provide information about how many such programs currently exist and how they are currently funded. In addition, Chapter 1090 specifically requires SAFE teams to collect data regarding their effectiveness. Yet, according to the LAO, the administration could not provide any such data or analysis documenting the teams' level of success to date. The LAO notes that the proposal also fails to demonstrate why state funding is necessary if the teams have been operating for the past several years without any state assistance. In addition, the LAO notes that the OES has been struggling to meet basic budgeting and accounting standards for the criminal justice programs transferred from the former Office of Criminal Justice Planning. The LAO believes that the financial problems will require ongoing attention by the department's executive management for the next several years and that the department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs.

Analyst's Recommendation. The LAO recommends rejection of this proposal.

Staff Recommendation. At the hearing on March 23, the Subcommittee left this item open. The Legislature is considering SB 1128, Alquist, which contains provisions related sex offenders generally, including the establishment and funding for SAFE Teams. Staff recommends rejecting the funding here, and allowing the issue to be moved forward in the proposed legisltion.

Action.

2. Disasters and State Emergencies -- Informational Issue

On February 24, 2006, the Governor declared a state of emergency for the state's levee system due to the imminent threat of catastrophic levee failure. The emergency proclamation cites a report by the U.S. Army Corps of Engineers in cooperation with the California Department of Water Resources (DWR) from December 2005 which identified 24 critical erosion sites on project levees in the Sacramento and San Joaquin River Flood Control systems. The declaration allows the Governor to use monies from the state's budget reserve for levee repair. On March 7, 2006, the Governor signed Executive Order S-01-06 instructing the DWR to repair the 24 identified critical levee erosion sites.

Comments. The Subcommittee may wish to get an update on the levee emergency declaration.
What is the traditional role that OES plays in declaring a state emergency, and what is the role of OES in the Governor's recent declaration of emergency regarding the levees moving forward?
What is the status of levee repairs on the identified critical erosion sites?
What are the estimates for the costs to repair the identified critical erosion sites?
What is the status on efforts to get the federal government to declare an emergency?

Informational Issue.

3. Large Scale Disaster Preparedness.

Legislative hearings, independent analysis including the Little Hoover Commission, and agency reports all point to the conclusion that while California has done quite a bit and is far ahead of other states, there is still work to be done. These various entities have suggested significant gaps in large-scale disaster preparedness exist in areas including evacuation plans, training and exercises, and addressing the surge of cases at health centers in the event of a flu pandemic.

Comments. The Subcommittee may wish to get comments from OES regarding the planning and preparedness for medium and large scale disasters.

In terms of large scale disasters, what are the anticipated threats facing California?
Does OES prepare contingency plans for large scale disasters?
Where are the gaps or problems that may exist among the various levels of government including federal, state and local?
Is California prepared for emergencies that require mass evacuations?
What is the state’s capacity to respond to a surge of patient at health care centers?

Informational Issue.

6. Radio Interoperability – Informational Issue

The Public Safety Radio Strategic Planning Committee (PSRSPC) was established by legislation in 2002 (AB 2018) as a means to develop an integrated network of systems and interoperability for state agency first responders. The agencies involved with PSRSPC represent state-level core agencies that routinely employ public safety communications to carry out their missions in state government.

The agencies that makeup the PSRSPC include: the California Highway Patrol; the Department of Transportation; the Department of Corrections; the Department of Parks and Recreation; the Department of Fish and Game; the Department of Forestry and Fire Protection; the Department of Justice; the Department of Water Resources; the Office of Emergency Services; the Emergency Medical Services Authority; the Youth Authority, the Department of General Services, and the Office of Homeland Security.

Statute provides the PSRSPC with primary responsibility in state government for developing and implementing a statewide integrated public safety communication system for state government agencies.

Pursuant to statute, in January 2006, the PSRSPC reported to the Legislature with its plan for California State public safety communications integration, modernization, and interoperability. It is both a status report of PSRSPC activities as mandated by the Public Safety Communications Act of 2002, as well as a statewide strategic plan for wireless communication modernization and interoperability. The PSRSPC membership believes this plan captures needed history and context, sets a realistic vision for the future, and recommends real-world steps that can be implemented immediately. This plan provides a "roadmap" for addressing the complex needs of California's public safety communications infrastructure.

What are the accomplishments of the PSPSPC and what are the next steps?

Informational Issue.

0685 Office of Homeland Security

The Office of Homeland Security (OHS) develops, maintains, and implements a statewide comprehensive homeland security strategy to prevent terrorist attacks within the state, reduce the state's vulnerability to terrorism, minimize damage from attacks that may occur, and facilitate the recovery effort. The OHS also serves as the state administering agency for federal homeland security grants and the state's primary liaison with the U.S. Department of Homeland Security.

Budget Request. Currently, the OHS is funded as part of the Office of Emergency Services (OES). The budget proposal reflects technical adjustments necessary for the OHS to be budgeted as an independent entity, effective January 1, 2007, if legislation is passed that establishes the Office in statute. However, the Administration has not proposed legislation to create OHS as an independent entity in a budget trailer bill.

Total funding for the OHS in the budget year is $365 million ($359.7 million federal funds and $5.2 million Antiterrorism funds). Of the total proposed funding, $330.5 million is for homeland security grants to local jurisdictions, $22 million is for homeland security grants to other state agencies, and $12.4 million is for support of the OHS. In the budget display, half of the funding appears in the OES budget item and half in the newly created OHS budget item. The Table below displays the combined funding from both budget items to show the total proposed budget.

Office of Homeland Security

	Expenditures *(dollars in thousands)*				
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**% Change**
Support of Office of Homeland Security	$2,987	$11,227	$12,436	$1,209	10.8%
Support of Other State Agencies	n/a	n/a	22,000	22,000	n/a
Local Assistance	203,000	328,000	330,500	2,500	0.8%
Totals, Programs	**$205,987**	**$339,227**	**$364,936**	**$25,709**	**7.6%**
Total Authorized Positions	**22**	**53**	**67**	**14**	**26.4%**

Staff Comments. The support of the Office of Homeland Security program includes $4.5 million for an interagency agreement with the Military Department to provide assistance with a statewide training and exercise program. The budget for OHS grew significantly in the current year as a result of expansions in the staff approved last year for the OHS.

The U.S. Department of Homeland Security (DHS) indicates that approximately $1.8 billion will be available nationally for homeland security grants in federal fiscal year 2006, which began in October 2005. Because the state is currently in the process of applying for these grants, the funding is not included in the January budget. In previous years, the Department of Finance has submitted a Finance Letter in the spring once the grant awards have been made by the DHS. OHS indicates that it does not anticipate that the grant awards will be made by the federal government to include them in the budget by the time of the May Revision.

1. Homeland Security Grants – Informational Issue

Since 2000, the state has received over $1 billion in federal homeland security funds that are administered by the OHS and by the Department of Health Services. The Table below highlights the funds administered by OHS since 2000.

OHS Federal Homeland Security Grants
Federal Fiscal Years 2000-2005

Federal Fiscal Year	Local Governments	State Agencies	Total
2000 & 2001	$12,224,750	$2,608,250	$14,833,000
2002	19,965,000	4,866,000	24,831,000
2003	186,960,190	39,521,300	226,481,490
2004	282,038,527	35,091,400	317,129,927
2005*	295,808,216	30,661,056	314,922,077
Totals	**$796,996,683**	**$112,748,006**	**$909,744,689**

*Totals for 2005 include Urban Area Security Initiative Transit Grants and the Buffer Zone Program.

Grant Management. Generally, the federal government has capped the amount allowable to the states for management and administration at 3 percent of the total grant. The following amounts were retained by OHS for management and administration (M&A):

- For funds received in federal fiscal year (FFY) 2000, 2001, and 2002, no funding for M&A was allowable.
- For FFY 2003, $1,753,407 was retained.
- For FFY 2004, $2,500,000 was retained.
- For FFY 2005, $7,879,106 was retained (this represents 3 percent of the grants and was the maximum allowable under the grants).

For FFY 2006, OHS indicates that the states will be able to retain up to 5 percent for M&A. OHS expects to retain the maximum amount for M&A.

Specific Reporting and Audit Requirements. The federal government requires recipients to submit both financial and program reports. These reports describe the status of funds, the status of the project, a comparison of actual accomplishments to the objectives, and the reason(s) goals have not been met. Future awards, fund draw-downs, and modification approvals may be withheld if financial and program reports are delinquent. In addition, grantees and sub-recipients are responsible for obtaining independent audits and are responsible for follow-up and corrective action on all audit findings.

Grant Management Issues Raised Last Year. Last year, the LAO reported that its review of homeland security programs found that neither OHS nor DHS was conducting audits of local government grant recipients to ensure that the funds were being used consistent with requirements and approved proposals. In its request for additional grant management positions last year, the OHS indicated that: (1) responses to sub-grantee award adjustment requests were delayed up to 45 days; (2) five of the last seven federally required performance reports had been submitted as much as 60 days late; (3) sub-grantee requests for technical assistance were taking on average 23 days to receive a response; and (4) sub-grantee monitoring (verification of the sub-grantee compliance with grant requirements) had not been performed at all due to lack of staff. The OHS indicates that it has corrected these problems due to the additional staff that was been provided through the budget process.

State Agency Grants. Generally, the Homeland Security Grant funding that goes to locals is allocated through a formula that is specially designated for a local region. However, the OHS does exercise some discretion over the grants made available to other state agencies. The OHS reports that in 2004 it received funding requests from state agencies totaling $289.4 million and approved funding of $32.6 million (11.2 percent of the total requested). For 2005, requests totaled $202.5 million and approved funding totaled $27.7 million, or 13.7 percent of the total requested).

OHS indicates that funding determinations have been guided by the goals and objectives of the state's overall homeland security strategy. In the past, the funding priorities have been equipping first responders, enhancing information sharing, protecting critical infrastructure, developing training and awareness courses, increasing public awareness and preparedness planning efforts.

Changes for the FFY 2006 Grants. The OHS indicates that for FFY 2006, each state and territory will receive base allocations from the State Homeland Security Program and the Law Enforcement Terrorism Prevention Program according to the USA PATRIOT Act formula. The remainder of funds will be allocated based on: (1) an analysis of risk at the state and urban area levels; and (2) the effectiveness of the state and urban areas grant proposals in reducing identified needs.

All Urban Area Security Initiative (UASI) funding will be allocated on risk and need calculated by the federal Department of Homeland Security. Previously, the federal government had funded the top 50 Urban Areas based on risk and need. For 2006, only the top 35 will be funded. As a consequence, Sacramento and San Diego have fallen off the list. These areas are eligible for continuation funding in FFY 2006, but would potentially not be eligible for future funding under this grant. In 2005, these areas were awarded $20 million from the UASI program. For FFY 2005, California's designated UASI regions were Anaheim, Santa Ana, Oakland, San Francisco, San Jose, Los Angeles, Long Beach, Sacramento, and San Diego.

Informational Issue

2. Homeland Security Grant Expenditures – Informational Issue

Last year, as part of its review, the LAO found that the state lacked a statewide strategic approach for homeland security funding and found that expenditure of the available federal funds has been slow and that monitoring and audits of local grants had not been performed.

The Table on the following page highlights the Homeland Security Grants that California has received and highlights when those funds expire and would have to be released back to the federal government. As can be seen in the Table, the grants from FFY 2002, 2003, and 2004 are all set to expire by the end of calendar year 2006. For these years, less than half of the funding has been expended to-date. The OHS indicates that extensions have already been approved for the FFY 2002 and 2003 funds and that no additional extensions will be provided.

OHS is working with the affected local agencies to help ensure that all eligible funds are expended. OHS has indicated that it is setting up a system such that unexpended funds can be disencumbered and reprogrammed to other sub-grantees in order to be expended prior to the expiration date.

Summary of Homeland Security Grant Expenditures as of February 2006 (Federal Fiscal Years 2002 through 2005)						
Grant	**Grant Award minus state Administration**	**Reimbursed**	**Percent**	**Balance**	**Percent**	**Grant Expiration Date**
FY02 State Domestic Preparedness Program	$24,831,179	$24,591,272	99%	$239,907	1%	7-31-06
FY03 State Homeland Security Grant Program Part I	45,023,000	35,676,847	79%	9,346,153	21%	9-30-06
FY03 State Homeland Security Grant Program Part II	119,256,000	87,472,534	73%	4,801,860	27%	10-31-06
FY03 Urban Areas Security Initiative Grant Part II	62,202,490	24,494,850	39%	37,707,640	61%	12-31-06
FY04 Homeland Security Grant Program	175,457,000	48,962,640	28%	126,494,360	72%	11-30-06
FY04 Urban Areas Security Initiative Grant	141,672,927	21,851,337	15%	119,821,590	85%	11-30-06
FY05 Homeland Security Grant Program	282,622,077	725,977	0%	281,896,100	100%	3-31-07
Total	**$851,064,673**	**$243,775,457**	**29%**	**$607,289,216**	**71%**	

3. Creation of the Office of Homeland Security as an Independent Entity

The Office of Homeland Security (OHS) lacks a statutory framework. Currently, OHS is included within OES for budgetary purposes.

Budget Request. The administration proposed the creation of OHS as a separate state entity. In anticipation of administration-sponsored legislation to implement this proposal, the budget creates a new budget item (0685) for OHS. The budget assumes an effective date of January 1, 2007 for this legislation. Consequently, the office's funding for 2006-07 is split evenly between OES's budget and the new budget item. The budget bill contains language that would revert the funding back to the OES budget if legislation does not create a separate entity.

The administration has proposed that OHS and OES be separate entities, both reporting directly to the Governor. Although OHS is currently budgeted within OES, the two entities largely have been operating independently of one another. The LAO notes that although homeland security and emergency services can be distinguished from one another in some respects, the activities tend to overlap. For instance, although OHS administers the federal homeland security grants, many grant activities are related to overall emergency planning and response (overseen by OES). Given the current structure, it is likely that federal grant funds allocated by OHS have been used for more narrow homeland security purposes than if OES allocated the grants. The OES would be more likely to integrate the federal funds with existing emergency preparedness activities.

In addition, as noted earlier, the state's emergency response system depends on solid working relationships among participants. Separating grant administration from day-to-day emergency response means that local governments have to forge relationships with two separate state entities.

LAO Recommendation. The LAO recommends rejecting the proposal for a separate budget item for OHS. The LAO believes that the OHS and OES have overlapping activities and need to work closely together and that the OHS should be established as a division within OES. The LAO believes that the Legislature should provide specific statutory authorization for OHS and delineate the office's duties and powers (within OES). Such an approach would make it clear that OES is in charge in case of disaster preparedness and response.

Staff Recommendation. The OHS has indicated that no legislation has been introduced to create OHS as an independent entity. Given the issues raised by the LAO, staff recommends rejecting the proposal to create a separate budget item in the budget bill for OHS. For clarity purposes, staff recommends that the funding for OHS be provided as a separate program within the OES budget, as has been proposed in the Governor's budget for the first half of the budget year.

Action

4. Science and Technology Unit

Budget Request. The budget proposes $465,000 in federal funds and five positions to establish a Science and Technology Unit within the OHS. The new unit would seek technology based solutions for homeland security related goals. The positions requested include a Research Manager, and 4 Research Program Specialists.

Staff Comments. The OHS indicates that the US Department of Homeland Security (USDHS) has set up a Science and Technology Directorate that supports programs in research, development, testing, and evaluation. This proposal would be to provide staffing to mirror the USDHS program. OHS indicates that the goal of the unit would be to harness scientific and technological resources to provide state and local officials with the technology and capabilities to protect California citizens.

The OHS indicates that the Science and Technology Unit will seek to counter threats of catastrophic terrorism by implementing best practices, investigating new improvements to capabilities, sharing new capabilities already in use in the private sector, other states, local agencies, and the federal government.

Staff Recommendation. If not used for this purpose, these funds would be available to state and local entities for homeland security needs. Staff recommends rejecting the funding for these new positions.

Action.

5. Administrative Unit Workload Increase
Budget Request. The budget proposes $444,000 ($244 federal funds and $100,000 antiterrorism funds) and 9 positions for additional administrative and grant management support for the OHS.

Concerns Raised by the LAO. The LAO notes that the 2005-06 budget provided OHS with a four-fold increase in staffing – bringing total authorized personnel from 13 to 53. The additional staff was intended to handle the office's growing duties, such as administering grants, reviewing dangers to infrastructure, developing the homeland security strategic plan, and related administrative duties. The LAO indicates that OHS still has 22 unfilled positions on its existing staff – an overall office vacancy rate of 42 percent.

Analyst's Recommendation. The LAO recommends rejecting the funding for these positions until the OHS fills its current positions.

Staff Comments. The requested positions include, a grants manager, a staff counsel, an administrative unit supervisor, a budget officer, accounting officer, personnel specialist, procurement/contract position, and an information systems analyst. In the current year, OHS received $355,000 to contract for administrative services related to fiscal services, information technology, and legal counsel. OHS indicates that it has contracted with the OES to provide these services.

The OHS indicates that it is seeking $100,000 from the Antiterrorism Fund because that funding would provide funding for the following specifically ineligible costs not allowed under the federal funds: (1) construction or renovation costs; (2) general purpose vehicles and associated costs (currently OHS has three vehicles on loan from the Department of Justice; and (3) professional license/certification renewal.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejecting funding for the new positions.

Action

6. Establish the California Mass Transportation Security Grant Program.

Budget Request. The budget proposes $5 million from the Antiterrorism Fund to fund a new program to assist local mass transit entities in improving the security infrastructure. The Antiterrorism Fund was created by Chapter 38, Statutes of 2002 (AB 1759, Wesson) following the terrorist attacks on September 11, 2001. The fund receives revenues from the California memorial license plates, which are estimated at $1.2 million annually. Money from the Antiterrorism Fund has not been appropriated in past years, and the estimated available balance is $5.4 million. The ongoing grant program would be $1 million annually. The proposal requires trailer bill language (attached) to authorize OHS to use the entire Antiterrorism Fund solely for antiterrorism purposes. Under current statute, the fund is allocated (upon appropriation by the Legislature) one half to the Office of Criminal Justice Planning (OCJP), solely for antiterrorism activities, and one half to other agencies for antiterrorism activities.

Analyst's Concerns. The LAO notes that in 2005-06, California received approximately $19 million in federal support for transit security and that a comparable level of federal funding is expected to be available to the state in 2006-07. Mass transit systems also are eligible recipients under many other federal homeland security grants. The LAO believes that the proposed program would only make marginal improvements, given the amount available and the identified needs. For example, the Bay Area Rapid Transit (BART) district estimates $250 million in necessary security improvements. Spread statewide, the proposed $5 million program would provide only minimal resources to address these demands. In some cases, however, additional funds would help provide some flexibility for activities that are ineligible for federal funding, like minor construction projects.

Analyst's Recommendation. The LAO recommends reducing funding by $2.5 million to allow for other departments' homeland security needs. The LAO notes that the Antiterrorism Fund is the state's only dedicated fund source for homeland security activities. The monies can be used to fund activities that are ineligible for federal funding. The LAO believes that using almost the entire fund balance for a single program is inconsistent with the original intent of the fund – to address multiple departments' homeland security requests.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends (1) reducing funding for the program by $2.5 million and (2) adopting trailer bill language that only substitutes reference in statute from the Office of Criminal Justice Planning to the Office of Emergency Services.

Action

Appendix
Proposed Trailer Bill Language

Issue #2
No RN yet.

Homeland Security – California Mass Transportation Security Grant

Section 5066 of the Vehicle Code is amended to read:

5066. (a) The department shall, in conjunction with the California Highway Patrol, design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of California memorial license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).

(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:

(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund. *Upon appropriation by the Legislature, the money in the fund shall be allocated by the Controller to the Office of Homeland Security to be used solely for antiterrorism activities.*

~~(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Criminal Justice Planning to be used solely for antiterrorism activities. The office may not use more than 5 percent of the funds appropriated to it for administrative purposes.~~

~~(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.~~

(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The department may utilize an amount of money, not to exceed fifty thousand dollars ($50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) "Antiterrorism activities" means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, ~~and~~ public health, *and mass transportation* agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, ~~and~~ public health, *and mass transportation* personnel, response training for existing and additional law enforcement, fire protection, ~~and~~ public health, *and mass transportation* personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 26, 2006
10:00 a.m.
Room 113

Consultant: Dave O'Toole

Item Number and Title **Page**

Consent/Vote-Only Budget Items

Discussion Items

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

BUDGET ITEMS PROPOSED FOR CONSENT / VOTE ONLY

0850	California State Lottery Commission
8640	Political Reform Act
8910	Office of Administrative Law
CS 11.00	Information Technology Reporting Requirements
CS 11.10	Reporting of Statewide Software License Agreements

VOTE:

DISCUSSION ITEMS

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. The Governor's budget funds 1,142.3 positions (including 54.7 new positions) and $27.8 million in expenditures.

VOTE-ONLY ISSUES

A. Finance Letters: Generally Accepted Accounting Principles Compliance Workload

The State Controller's Officer requests one permanent position and $87,000 (various funds) to accommodate increased workload associated with the preparation of annual financial reports. The growth of new reporting statements issued by the Government Accounting Standards Board (GASB) relating to Generally Accepted Accounting Principles (GAAP) has caused the workload to increase significantly over the last decade. This workload has been performed by utilizing overtime to meet reporting deadlines, a practice the SCO believes has become counterproductive.

B. Budget Bill Language on Calculating the State's Liability for Post-Employment Benefits

Both the GAAP Compliance Finance Letter described above and the "Other Post Employment Benefits Reporting" BCP approved at the March 23rd hearing (which directs the SCO to compile an estimate of the state's liability for future post-employment benefits of current state workers and retirees, other than retirement benefits themselves) are important steps in better quantifying public employee pension costs and will enable the Legislature to better understand the magnitude of the state's unfunded liabilities.

The Controller's estimate of liability for retiree health benefits will require the use of the same types of actuarial methodologies and assumptions used by CalPERS to estimate retirement benefit liabilities (employee age distribution and year of anticipated retirement, for example). For consistency, these methodologies and assumptions generally should be the same, except where there is a specific reason to differ (more recent information, for example).

Because the state now funds only the current cost of retiree health benefits, GASB 45 requires the use of a short-term interest rate (such as the Pooled Money Investment Account—PMIA-earnings rate, or about 4% now) to "discount" future costs. If, on the other hand, the state were fully funding these liabilities (similar to retirement contributions), future costs could be discounted assuming at the earnings rate of a long-term investment fund (such as the CalPERS rate of return of about 8 percent). The present value of the state's liability, using the higher investment discount rate, will be substantially lower than the liability calculated using the lower short-term rate. Accordingly, it would be useful for the Legislature and the Administration to have a second estimate calculated using the long-term investment rate in order to evaluate the potential costs and benefits of moving toward pre-funding retiree health benefits (as recommended by the LAO).

Staff suggests adding the following Budget Bill Language in Item 0840-001-0001 to address the issue:

> *The Controller's estimate of the state's liability for post-employment benefits prepared to comply with Governmental Accounting Standards Board (GASB) Statement 45 shall include, in addition to all other items required under the accounting statement: (a) an identification and explanation of any significant differences in actuarial assumptions or methodology from any relevant similar types of assumptions or methodology used by the California Public Employees' Retirement System to estimate state pension obligations, and (b) alternative calculations of the state's liability for post-employment benefits using different long-term rates of investment return consistent with a hypothetical assumption that the state will begin to deposit 100 percent or a lesser percent, respectively, of its annual required contribution under GASB Statement 45 to a retiree health and dental benefit trust fund beginning in 2007-08. This provision shall create no obligation of the state to change the practice of funding health and dental benefits for annuitants currently required under state law.*

NOTE: This issue conforms with action taken by Assembly Budget Subcommittee #4.

C. Notice Backlog for Security-Related Accounts
The State Controller's Office requests $620,000 General Fund and 7.5 positions (two-year limited-term) in 2006-07 and $538,000 in 2007-08, for the purpose of eliminating an anticipated backlog of notices to owners of unclaimed securities (stocks, bonds, etc.). Code of Civil Procedure 1531(d) requires notices related to security claims be sent to owners within 180 days of receiving the property.

D. Replacement of Unclaimed Property System
The State Controller's Office requests $3.393 million ($2.109 million General Fund) and five two-year limited-term positions to replace the existing unclaimed property system. General Fund expenditures would be $1.573 million in 2006-07 and $536,000 in 2007-08. Cost savings will be approximately $440,000 in 2007-08 and $1 million ogoing in the out years. The current system is more than 20 years old and requires frequent modification to be able to accommodate modern data formats and regulatory changes. A Bureau of State Audits audit, from 2003, identified several of the deficiencies this new system will correct.

VOTE on Vote-Only Issues A through D:

DISCUSSION ISSUES

1. Bank Reconciliation System Project. The SCO requests $710,0000 ($308,000 General Fund) to replace the State Controller's existing bank reconciliation system. This system tracks and issues bank warrants for the state, interacting with the State Treasurer, Department of Finance, Department of Motor Vehicles, CalSTRS, CalPERS, and the Franchise Tax Board. The SCO asserts that the technology of the current system is obsolete and technicians to maintain the system increasingly scarce. The proposed solution will use the services of a data conversion company to convert the existing database into a more modern and functional format.

Staff Comment: In the March 23, 2006, hearing, the Subcommittee expressed concern that the SCO had adopted a piecemeal approach to Information Technology (IT) projects and had no discernable plan to replace their antiquated IT systems. The SCO has reported that they have over 70 IT systems needing replacement (some portion of those will be rolled into other projects) and that the BankRec system is their next top priority.

The Subcommittee held this issue open and requested the SCO report to the Legislature on:

1. All IT projects needing replacement, project timelines, anticipated cost, and other information necessary to provide a comprehensive legacy systems replacement plan.
2. The steps the SCO intends to take to inform stakeholders of IT replacement plans.

In response to the Subcommittee request, the department has provided information describing their planned IT procurements over the next few years and the overriding guidance they use when determining priorities.

The SCO had previously stated that they are currently operating under the recommendations outlined in the 2002 IT infrastructure study by Gartner Consulting. That report provided a five to seven year plan for the SCO to use in modernizing the SCO's technology infrastructure. The central recommendation was that SCO should "incrementally modernize its existing systems and then exploit that modernization for direct business gain." The Gartner report did not provide a priority listing for the replacement of specific IT systems.

The SCO's response identifies the current and planned IT replacements. The currently under development or proposed projects are:

- the Human Resources Management System (underway);
- Unclaimed Property System replacement (proposed below);
- BankRec System;
- Local Government E-Claims System (underway);
- Electronic Fiscal Input Transaction System (underway);
- Apportionment Payment System (underway);
- In-Home Supportive Services System (separately proposed); and
- the Local Government Reporting System Upgrade (underway).

There are several planned tax system replacements, including the Tax Collection Refund, Gas Tax Refund, Property Tax Postponement, and Estate Tax Systems replacements, which will update the technology used on these systems with .net technology.

A much larger and more complex IT replacement will be that of the state's fiscal system. Like the Human Resources Management System, the fiscal system replacement project will have broad implications and impacts, replacing roughly 21 of the SCO's 70 legacy systems. This replacement will use an enterprise-wide approach enabled by current technology and will be inconsistent with, if not conform to, the Gartner study.

The SCO's overall IT replacement plan is based in part on the Gartner study, but also delegates IT project initiatives to program divisions, with cost always a primary driver. While recognizing the primacy of cost as an IT planning guide, the Subcommittee should continue to review long term IT replacement plans—particularly those of the legacy systems—when new IT proposals are presented.

Furthermore, as stated on the March 23, 2006, agenda, the SCO should make these priorities public and well known to all current stakeholders. The problem with not making IT priorities public is evidenced with the delayed implementation of the Human Resources Management System (HRMS) project. The uncertainty over when that system would be replaced led many departments to implement their own systems, creating a dissimilar patchwork of human resource tracking that must now be replaced. With a public plan and timelines, state and local agencies will be better able to prioritize their own IT procurements.

Staff Recommendation: APPROVE the BankRec BCP and request the SCO explain its processes for informing state and local stakeholders of its plans and timelines for IT replacements.

VOTE:

2. Unclaimed Property Audit of Holders

The State Controller's Office requests $1.441 million and 15 positions for two-years to conduct field examinations of various California holders of unclaimed property. These examinations will include banks, hospitals, major financial institutions, and multinational companies. Audits involve mining data and contacting the institutions to determine if escheatment has occurred. The SCO estimates unclaimed property receipts of $7.5 million in 2006-07 and $15.0 million in 2007-08 and beyond.

Staff Comment: Private entities are required by law to escheat their client's private property to the state after a set period of time. When this does not occur, these entities unfairly benefit from the interest value of the property and at the same time overstate their income. State escheatment law dictates that unclaimed property must revert to the state, where, if unclaimed, the value has public benefit and where reuniting owners and property is pursued through focused efforts and facilitated through a centralized database.

Code of Civil Procedure Section 1571 permits the Controller to, "at reasonable times and upon reasonable notice examine the records of any person if the Controller has reason to believe that the person is a holder who has failed to report property that should have been reported pursuant to this chapter." Based on past examinations, the SCO estimates a 10-1 benefit-cost ratio for each new position established.

Like the Board of Equalization and Franchise Tax Board, the SCO faces difficult recruitment problems in the auditor classifications. For example, ten SCO auditor positions authorized by the 2005 Budget Act to audit mandate claims were only just filled. The SCO has cited the limited-term nature of these ten positions as a major obstacle to hiring.

An alternative to filling these positions on a limited-term basis would be to authorize them on a permanent basis and require reporting on the performance of the positions. This information will enable the Administration and Legislature to evaluate, each year, the efficacy of the positions and determine whether adjustments to reduce or augment positions are merited.

There is precedent for this type of annual reporting. The Franchise Tax Board currently provides an annual report on its auditor and collector activities. This information is used to evaluate performance and suggest where resources should be adjusted.

Staff Recommendation: AMEND the proposal by making the 15 positions permanent and add supplemental report language requiring ongoing reporting on unclaimed property audits, including audit findings, amount of collections, the number of individuals reunited with their property, and the amount the SCO disbursed to owners through this effort.

3. Unclaimed Property Program Staffing

The SCO requests $554,000 General Fund and 7.2 positions to handle increased workload associated with notifying owners of unclaimed property, facilitating auctions of safe deposit boxes, and providing operational support to Unclaimed Property Program management. The SCO's request consists of the following three components:

- 2.6 permanent positions for increased workload associated with the mailing of Franchise Tax Board (FTB) notices to owners of unclaimed property.
- 2.1 permanent positions for workload associated with the auctions of safe deposit box contents.
- 2.5 permanent positions for operational support to the Unclaimed Property Program (UCP) management.

The SCO has explained that if the unclaimed property workload positions for FTB notices and auctions are not approved, service delivery and unclaimed property auctions would be degraded. Unclaimed property auction revenues would decrease from $1.6 million to $1 million annually by 2007, based on reduced capacity to operate online auctions.

Staff Comment: This issue was previously considered at the March 23, 2006, hearing. Staff recommendation was to (1) amend the request for 2.6 FTB notice positions and 2.1 safe deposit box unit positions, by making them three-year limited-term, and (2) reject the request for 2.5 positions for operational support. The Subcommittee action was to leave the issue open for further discussions between the department and staff.

Comments from the March 23 agenda were:

> *The Budget Change Proposal (BCP) notes that in the last two years the UCP has been able to redirect 14 positions for FTB notices and safe deposit box resolution workloads, but that ongoing redirections will undermine their ability to meet other workloads. A redirection equal to five percent of approximately 128 program personnel is considerable. Of the 14 redirections, all were redirected from other divisions.*
>
> *The 2.5 operational support positions are a new workload request. The proposed staff would conduct legal research, fraud detection and prevention, special projects, customer service, legislation, and other staff work.*
>
> *Recognizing the SCO's considerable capacity for staff redirections, redirections may also be used for the new operational support activity, perhaps using staff previously redirected from other divisions. Furthermore, many of the proposed operational support activities are germane to other divisions (e.g. legal research, fraud detection, legislation, and customer service) and could be absorbed by, or using staff from, other SCO divisions.*
>
> *Staff notes that while Unclaimed Property Program activity has surged in recent years, the ongoing workload is less certain as more citizens learn how to recover their property and new technological capacities to reunite owners with their property become available.*
>
> *The Legislature should revisit workload trends for FTB notice positions (2.6) and safe deposit box positions (2.1) at a later date and ascertain whether redirections may again be possible.*

The SCO has responded to both staff recommendations. The SCO has provided clarification on the growing workload of the notice and safety deposit box activities that suggest the positions not be confined to two-years limited-term. With the operational support positions, while demonstrable workload exists, it is not clear that a share of the redirections (14 positions from other divisions) cannot be ongoing for this 2.5 position workload. Furthermore, the nature of operational support work is such that some of it could be assigned to other personnel as a secondary duty, including the newly established notice and safety deposit box positions.

Staff Recommendation: AMEND the BCP by rejecting the request for 2.5 positions for operational support.

VOTE:

0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the Department of Insurance regulates the largest insurance market in the United States with over $115 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and those insurance companies are financially able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries; administers the conservation and liquidation of insolvent and delinquent insurance companies; reviews and approves insurance rates; and combats insurance fraud.

The Governor's budget funds 1,272.9 positions (including 13 new positions) and expenditures of $197.6 million.

DISCUSSSION ISSUE

BCP: Implementation of Patient and Provider Protection Act
The Department of Insurance (DOI) requests ten positions and $1.2 million (Insurance Fund) to implement the provisions of Chapter 723, Statutes of 2005 (SB 367). This law required the department to process complaints and inquiries from insureds and their health care providers. This law also required the department to provide information concerning the process for filing complaints and making inquiries concerning health insurers. These positions will field those complaints and investigate unfair claims practices found during these processes.

Staff Comment: This issue was heard on April 6, 2006, and held open pending additional information and reconciliation of the appropriate staffing level. The LAO had recommended funding five positions for this new function, half of the Administration's ten position request. Senator Speier's office, the Patient and Provider Protection Act sponsor, has recommended to subcommittee staff and DOI staff funding eight positions. Eight positions would be the same staffing level as that currently existing in the Department of Managed Health Care (DMHC) for a similar provider complaint function. The LAO and DOI have indicated their support for this staffing level.

A lingering question raised at the April 6 hearing was whether the DMHC workload is the same as the workload anticipated by the DOI. A fundamental difference exists in that DMHC regulates HMO's and other similar health plans, whereas the DOI regulates indemnity plans where (in most cases) there are no contracts between the providers and the insurers. The lack of a contract makes the DOI workload ripe for disputes over how much should be paid to the provider on a health insurance claim. Consequently, the DOI should expect a higher percentage of provider complaints on indemnity plans than on HMO plans regulated by DMHC.

The LAO has recommended and the Assembly Budget Subcommittee has adopted supplemental report language requiring the DOI to report annually for three years on its workload and staffing requirements in implementing SB 367, and, if workload is insufficient, submit a negative BCP to correct staffing levels. At the April 6, 2006, hearing, the Administration and DOI raised no objections to this reporting language.

Staff Recommendation: REDUCE the BCP by two positions (fund eight total) and adopt Supplemental Report Language requiring the DOI to report annually for three years to the Legislature on its workload and staffing requirements in implementing SB 367.

VOTE:

0860 Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department (EDD) are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. BOE also assesses utility property for local property tax purposes, oversees the administration of local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws.

The Governor's budget funds 3,802.9 positions (including 64.5 new positions) and proposes $370.6 million in total expenditures ($212.8 million General Fund).

DISCUSSION ISSUES

1. Tax Gap Proposals
At the March 9, 2006, hearing, the Subcommittee heard how the state faces a $7.9 billion tax gap problem. The tax gap is simply the difference between what individual and business taxpayers should pay and what is actually paid. The tax gap shortfall is comprised of $6.5 billion in personal income and corporation tax and a $1.4 billion gap in sales and use tax payments. With California expected to collect $87.7 billion General Fund in the current year, this lost revenue amounts to nine percent of total annual General Fund revenue.

At that March hearing, the Subcommittee heard how the tax gap is harmful to the state in many ways, but principally because: (1) those who pay their fair share pay higher taxes to cover the gap, and (2) tax collections are undermined by the public perception that some are not paying their fair share. A key solution to addressing the structural deficit (while at the same time strengthening the fairness of the state's tax system) is closing the tax gap.

The Board of Equalization (BOE) bases their most recent estimate of the tax gap on the total amount of state sales and use tax that was due during the 2004-05 fiscal year, which amounted to approximately $28.2 billion. (For local agencies, who BOE also collects for, the total amount due is $14.5 billion. This discussion will not address local agencies' tax gap.) Of the $28.2 billion that should have been collected, $26.9 billion or 95.2 percent was paid voluntarily by those businesses registered with the Board. Without rounding, the gross state sales and use tax gap is $1.4 billion or 4.8 percent of the total amount of sales and use taxes due. The sales and use tax gap is largely a use tax shortfall.

The following proposals will begin to address the tax gap and restore fairness to the tax system.

A. Audit Selection Improvements
As the LAO noted in their *Analysis of the 2006-07 Budget*, "improving audit selection—through discovery audits or other improvements in audit selection methods-represent more fundamental approaches to dealing with noncompliance."

The BOE has adopted several new processes to refine their auditing selection. In 2004-05, the BOE decentralized some of its audit selection to enable local districts to better focus their audits and refined audit selection at the headquarters level to include more businesses that had not been audited in several years. That same year, BOE purchased a "NameSearch" software to enable them to match accounts with external agency data using only a name. This software has boosted matching across accounts from 15 percent to 70 percent.

Through these refinements, the BOE learned that selections will improve if additional data and resources are used to select audits. To that end, additional data is now coming from FTB, the IRS, EDD, and the U. S. Custom's Service.

The BOE has reformed internal processes, too. It now provides audit staff with the reason the account was selected for audit and results of past audits, if available. The BOE is also identifying "priority" accounts to ensure the largest taxpayers are audited in a timely manner. In 2006-07, the BOE plans to implement several new procedures to refine audit selection, including:

- Utilizing new software called Clementine, which will enhance the department's audit selection capabilities by improving data sorting capabilities.
- Putting U.S. Customs data into the audit selection database for local district use.
- Extending the time allowed for audit selection, in order to facilitate more careful selections.
- Sharing information with local districts on the deductions claimed by taxpayers on their returns.
- Making greater use of data from the FTB's integrated Nonfiler Compliance (INC) database to identify taxpayers who may be underreporting Sales and Use Tax liabilities.
- Utilizing North American Industry Classification System data to identify tax underreporters.

Staff Recommendation: ADOPT supplemental report language directing the Board of Equalization to report annually on the outcomes of each of the audit selection enhancements outlined above, additional revenues generated through those methods, and identification of other audit selection improvements where additional resources would close the tax gap further.

B. Targeted Sales and Use Tax Audits
The LAO, in their *Analysis of the 2006-07 Budget* noted that:

> *the BOE has identified use tax noncompliance by service industry businesses as a major contributor to the tax gap. For example, many professional offices and consulting firms use equipment and furniture purchased from out of state, but fail to pay the use tax owed to California on such items. This may be due to either inadvertent or willful actions on the part of businesses. Despite the importance of*

this sector as a contributor to the tax gap, neither the BOE nor the administration has put forth a proposal to address it.

The LAO recommended the BOE establish a pilot program of targeted audits for selected service industries regarding use tax compliance.

In response, the BOE pointed to an existing program, the audit of U.S. Customs data and the results achieved this year.

U.S. CUSTOMS DATA MINING

The current year Budget Act includes one position designated to mine U.S. Customs data sent to the department. The workload is based on a recent pilot project that reviewed data on over one million individual quarterly transactions for items imported through California’s commercial ports of entry and then collecting use tax due. The results from that pilot were surprising: over $6400 in collections per hour of work.

In 2005-06 budget development, Subcommittee staff recommended the addition of two additional positions for this activity, noting that the positions would generate an additional $2.3 million in the budget year and subsequent year. The BOE declined to support that recommendation, instead requesting a year to see if the pilot results would be borne out.

The pilot results have been borne out and then some. Despite filling the position only early in 2006, revenues were $220,000 by the end of February, $743,000 by the end of March, and on track to collect $1.5 million. This $900,000 budgeted will be well exceeded.

One position will process a lead and send approximately 300 letters a month, or 3600/year. The department expects to receive 10,000 leads a year, and, when combined with the 2004 and 2005 backlog, suggests that five positions are more appropriate to address the backlog.

Assuming each position generates $1.2 million/year (a conservative estimate based on current year outcomes), the addition of four new positions would generate $4.8 million in new revenues (at a cost of $260,000) and restore some fairness to the tax system. While the department has indicated that they intend to request positions next year for this purpose, there is no apparent reason to wait until 2007-08 to address this obvious tax gap problem.

OTHER TARGETED SALES TAX AUDIT

At the request of Assembly Budget staff, the BOE has embarked on a pilot project with a major “big box” retailer to determine the level of retail sales certfificates fraud. This involves verifying that the reseller is in fact a business, or alternatively, examining whether purchasers of a large quantify of items did in fact report those items as resold. If they did not, it suggests that sales may have occurred but not been reported.

Preliminary findings of this targeted sales tax audit suggest that the BOE should establish a dedicated program for retail sales certificate audits.

Staff Recommendation:
1. Request the BOE report on preliminary findings of the “big box” pilot and what resources would be prudent to implement this tax gap solution.

2. Request that the BOE report on additional targeted use tax audits for specified service and professional businesses, including educational and enforcement aspects of such audits and estimated revenue impacts.

3. Augment the BOE’s U.S. Customs data mining efforts by four two-year limited term Tax Technician III positions and associated costs (an augmentation of approximately $260,000 General Fund) and budget the $4.8 million in new General Fund revenues.

VOTE:

C. Business Property Reporting Requirement
In their *Analysis of the 2006-07 Budget*, the LAO suggests that the BOE expand the business property reporting form and require filing with the BOE, as well as county assessors. Local county assessors receive annual property tax statements from businesses related to their personal property holdings. Including information regarding sales or use tax paid on acquisitions of the property identified on the statements and allowing that information to be shared with the BOE would facilitate the administration of sales and use tax laws and generate new tax revenues.

Although the Board prescribes many types of forms for use by assessors, taxpayers must obtain the business property statement and any other required forms from the county in which the taxable property is owned, claimed, possessed, controlled or managed. Taxpayers report their personal property holdings by year of acquisition in lump sum amounts that are broken down by a few broad category types. Redesigning the form to allow reporting by specific categories and use tax liability would better enable the BOE to identify noncompliance with property tax laws.

The BOE has recently stated that it is negotiating with the County Assessors to standardize the business property statement form and add a use tax question. Sharing business property statement information will also facilitate the administration of tax laws.

Staff Recommendations:
1. Request the BOE report on the status of negotiations with county assessors, any concerns with implementing this requirement statutorily, confidentiality issues, and provide a revenue estimate based on information from this reporting.

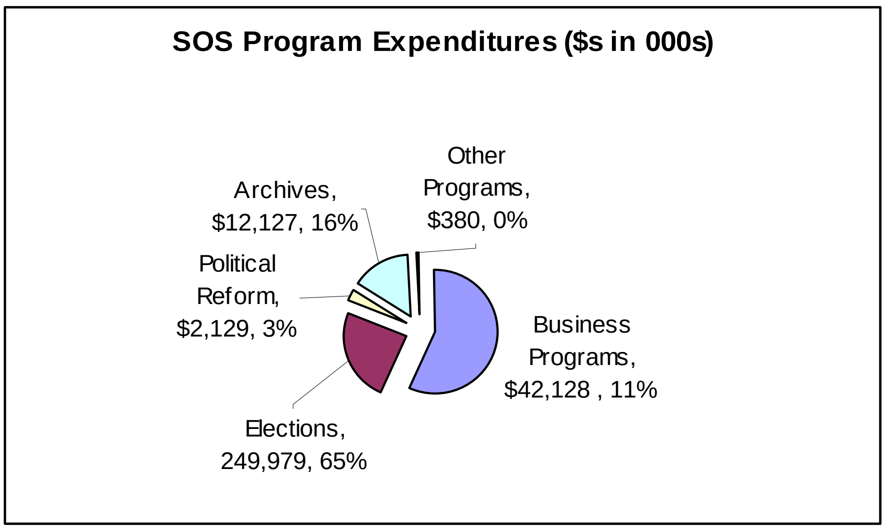
2. Direct staff to prepare legislation requiring the sharing of disaggregated business property reporting information between localities and the state.

VOTE:

0890 Secretary of State

The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary law and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, and Information Technology and Management Services Divisions.

The Governor's budget funds 484.5 positions (including 31 new positions) and budget expenditures of $77.2 million ($32.0 million General Fund).



VOTE-ONLY ITEMS

A. Finance Letter: Business Programs Automation

The Secretary of State requests $2.210 million (Business Fees Fund), including $1.831 million ongoing to fund the maintenance and operation costs of data services and programming of the Uniform Commercial Code (UCC) automated system. The SOS is responsible for filing and sharing certain financing statements through this system. The SOS requests to offset this augmentation by $255,000 by reducing three IT positions that will no longer be needed. Fees collected for filing financing statements will fund this augmentation.

B. BCP: Forensic Leak Assessment and Security System Replacement

The Secretary of State requests a one-time expenditure authority of $625,000 (Business Fees Fund) to conduct a forensic leak assessment and replace the security monitoring system at the Secretary of State and State Archives Building Complex. Similar to the Board of Equalization Building on N Street in Sacramento, the Secretary of State has encountered water intrusion problems during heavy weather, resulting in concerns about mold-related illnesses. The CHP conducted a building security assessment in 2002 and recommended upgrades to the video surveillance system.

DISCUSSION ITEMS

1. Help America Vote Act (HAVA) Spending

In the fall of 2002, Congress passed and the President signed legislation to fund improvements to states' election systems. HAVA funds have been appropriated nationwide with the direction to implement broad election reforms and improve the accuracy and performance of each state's voting processes. For California, these activities include developing a statewide voter database, voter outreach, poll monitoring, replacing punch card voting machines with more modern equipment, and other related activities. Since establishment, California has received $361.6 million in federal funds to implement mandates affecting the administration of federal elections. The 2005-06 budget reappropriated $201.7 million in federal funds for these purposes.

The 2006-07 Governor's budget did not incorporate the spending plan for the remaining federal HAVA funds, approved by the Legislature in April 2005. Instead, the Administration has provided a current year budget control section letter, a Finance Letter request for the budget year, and a revised expenditure plan for the Legislature to consider.

CURRENT YEAR BUDGET CONTROL SECTION LETTER.
The Administration requests additional current year federal fund expenditure authority of $4.313 million for costs associated with the statewide database interim solution (CalVoter upgrade), county costs associated with implementing that interim solution, voting systems guidelines and procedures, and parallel monitoring of polling machines.

FINANCE LETTER
On April 18, 2006, the Administration submitted a Spring Finance Letter proposing $5.5 million in new budget year expenditures. This includes initial costs for the new statewide database ($2.1 million), interim solution, poll monitoring, parallel monitoring, voting system assessments, and voter education materials. Additionally, the request includes reappropriation requests for $46 million in HAVA funds. The reappropriation will fund HAVA activities previously approved but have fallen behind schedule.

REVISED EXPENDITURE PLAN
The Secretary of State's new plan reduces HAVA expenditures and addresses concerns raised by the Joint Legislative Budget Committee regarding the appropriate expenditure of federal funds. The overall JLBC concern was that the SOS needed a new and comprehensive proposal for spending HAVA funds. The JLBC recommended the Secretary of State provide a plan that did not commit the General Fund to paying for the statewide voter database, and advised them to cease all discretionary HAVA activities, other than spending on county grants.
The revised proposal reflects several changes relative to the current plan, including:

- Increases costs for the VoteCal statewide voter database (from $47 million to $67 million).
- Eliminates county training grants for training local officials and poll workers (reduction of $9.5 million).

- Eliminates General Fund support for the VoteCal statewide voter database (savings of $19 million General Fund in out years).
- Eliminates source code review which would involve contracting with independent experts to review and analyze the source codes used in voting machines and associated devices (reduction of $1.2 million).
- Eliminates federal audit requirement (reduction of $1.5 million). This audit will be paid for by counties who are actually subject to the audit.
- Reduces funding for county security based on reimbursement claims received to date (reduction of $2.6 million).

Staff Recommendation: Request the Secretary of State:
1. Describe the overall changes included in the revised expenditure plan, identifying deficiencies that were identified and corrected relative to the April 2005-approved plan.

2. Explain why funding for independent examination of voting systems' source codes is no longer needed.

3. Identify steps being taken to ensure that the contract for a statewide database provides sufficient financial protections for the state in case of unexpected events.

4. Identify steps being taken to ensure that the department does not exceed its fiscal authority in the future.

2. BCP: Notary Public Applications
The Secretary of State requests $3.132 million (Business Fees Fund) and 30 positions to augment the Secretary of State's capacity to process notary applications and conduct background checks. Of the 30 requested positions, 7 would be two-year limited-term. The requested positions would address an anticipated rise in notary applications and allow for more hearings into notarial misconduct.

A Notary Public is a public servant appointed by state government to witness the signing of important documents and administer oaths. The state will have 281,444 notaries public as of July 1, 2006. This equals 133 persons per notary public. Notaries are commissioned on a four-year term.

Staff Comment: According to the Secretary of State, the number of applications received and processed has grown from 50,000 in 2000-01 to 122,000 in 2004-05. The SOS attributes this growth largely to the housing market and a "strong" level of mortgage refinancing, reverse mortgages, and home equity loans. The SOS has met this workload using 12.5 permanent positions and 12 limited-term positions. The 12 limited-term positions will expire this year.

In the current year, the SOS estimates 144,000 in applications. However, as of March 31, the department had received only 89,000 applications. Based on that the number actually received, it appears the department will receive 119,000 applications in the current year. Adopting the SOS growth rate of 18 percent growth rate in 2006-07, the number of applications should be 140,000—30,000 less than the 170,000 anticipated in the proposal. (Staff notes that the 18 percent growth rate was not based on any economic analysis related to the level of mortgage refinancing, reverse mortgages, and home equity loans. Eighteen percent is simply the growth rate in 2004-05.)

Adopting the SOS's 18 percent growth rate, the appropriate level of staffing is 16, rather than the 20 additional notary application processing positions requested.

The SOS has included in the BCP a request for ten additional positions to address an anticipated but not existent caseload in the Notary Investigations and Enforcement Unit. Given the unknown economic and workload trends identified above, there is no clear justification for additional investigation positions at this time.

There is no backlog in the investigations and enforcement unit. Without the identification of a backlog, it is difficult to know how much additional workload the department can absorb or reorient its current service delivery practices. For example, the SOS has explained that they have recently begun accommodating potential notaries to a greater degree by traveling *to* the applicants, rather than hosting applicants at a central site and event. Reducing that service will free up staff time for other workloads.

Given the highly speculative nature of the real estate market, it is very difficult to accurately predict notary workload before it actually materializes. If it does materialize, the Legislature may wish to consider funding additional stafff in a subsequent budget year.

OPERATING EXPENSE
Components to the operating expense allocation (OE) accompanying these positions are unusually high. The department was not able to identify the basis for their OE calculations, other than to state that they have been at that level since 1999. The department relies on this past practice for budgeting of printing, communications, postage, training, consolidated data centers, and data processing costs. Funding for these items are approximately 50 percent greater than what other departments charge.

Furthermore, since this high OE complement level for new positions has been the practice since at least 1999, an excessive amount of OE has accrued in the Secretary of State budget.

Funds not spent from the Business Fees Fund are transferred to the General Fund and treated as revenues.

Staff Recommendation:
1. AMEND the request by approving the establishment of 16 notary processing positions for two years limited-term.

2. AMEND the operating expense complements for the 16 positions authorized, reducing the printing, communications, postage, training, consolidated data centers, and data processing funding by one-half (savings of approximately $64,000)

3. Request that the SOS research their OE cost basis and provide that information with subsequent budget change requests.

VOTE:

3. BCP: Records Processing Backlog
The Secretary of State requests $295,000 General Fund and one Archivist II position to address the backlog of archival records and to establish a program to prevent future backlogs. The SOS will also utilize 12 graduate student interns to address the backlog of processing and organizing deposited materials.

Staff Comment: As described above, components to the operating expense allocation accompanying this position appeared unusually high and were unverifiable. Specifically, in the budgeting of printing, communications, postage, training, consolidated data centers, and data processing, the department is relying on past practice only. Funding for these items are approximately 50 percent greater than other departments.

Staff Recommendation: AMEND the BCP request by reducing funding for the specified OE items by 50 percent to reflect a more reasonable estimate of costs (savings of $5000).

VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. The Governor's budget funds 5,160.4 positions (including 32.5 new positions) and expenditures of $662.4 million ($499.2 million General Fund).

A. Finance Letter: Tax Gap and Discovery Audit Programs: Full Year Annualization of Costs
The Administration requests $659,000 General Fund to request the full year cost of positions established in the 2005 Budget Act at a partial year rate. This adjustment will enable full implementation of programs established by the Legislature last year.

B. Finance Letter: Occupancy Costs for the Butterfield Office Complex
The Administration requests $21.611 million General Fund, $101,000 Motor Vehicle Account, $188,000 Motor Vehicle License Fees, $282,000 Court Collection Account, $1.854 million reimbursements, and $82,000 from the Political Reform Act budget (for a total of $24.1 million) to fund increased rental costs and service expenses at the FTB's main office in Sacramento. DGS has directed FTB to transition to a full service billing fee structure, which the proposed funding would provide.

VOTE on Vote-Only Issues A and B:

DISCUSSION ISSUE

1. Auditor Recruitment and Retention
Both of the state's major tax agencies face significant challenges in filling positions and retaining staff in audit positions. At the FTB, the department is concerned that the dual threat of staff loss and hiring difficulties are rising and will eventually jeopardize the department's ability to generate revenues.

A primary factor for staff losses and hiring difficulties are that compensation for an *experienced* auditor does not match what the private sector provides. The FTB is concerned about the training and developing they devote to staff, only to see them leave for higher paying private sector employment. The departure of experienced staff also has the secondary effect of keeping the average experience level low at the department.

The FTB has a large staff need and many competitors. The FTB has 600 auditors and program specialists working in 13 locations. The department competes for auditors with the private sector, IRS, and many other state and local departments. Furthermore, the passage of the federal Sarbanes-Oxley Act has dramatically increased the demand for auditors in all sectors of the economy.

The FTB cites salary competitiveness an one important component to addressing the retention and recruitment problems. The DPA is currently examining auditor salaries and is expected to release a report soon detailing how state auditor salaries differentiate from other sectors of the economy.

Currently, the FTB has 40 vacancies above their normal salary savings level. Based on the average of $1 million in revenues collected per auditor per year, the state stands to lose approximately $40 million this year in collections by FTB audit staff.

The audit program at FTB produces over $1 billion in revenue a year. Given the $6.5 billion tax gap, there is every good reason to believe that more auditors are needed, making this trend all the more alarming.

Staff Recommendation: Request the FTB to report on their:

1. Plan for increasing salaries to be competitive and any DPA findings that would substantiate a change.

2. Plan and strategies for recruitment and retention (in addition to salary changes).

3. Updated 2006-07 revenue loss projection due to excess vacancies.

1955 Department of Technology Services

The Department of Technology Services (DTS) is the result of reorganization and consolidation of the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. The Department of Technology Services (DTS) serves the common technology needs of Executive Branch agencies and other public entities with accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. A Technology Services Board provides governance and guidance to the DTS.

The Governor's budget funds $235 million in expenditures from the DTS Revolving Fund and 775.2 positions (no new positions). Several proposals to expand services are offset by a decrease due to one-time spending in 2005-06.

Budget Change Proposals Proposed for Vote-Only

A. Child Welfare System/Case Management System Application Hosting Move
The Administration proposes $4.0 million (DTS Revolving Fund) to enable the department to move this system from an IBM data center in Colorado to a state data center. The Administration asserts that this move is necessary to comply with a federal directive and protect the CWS/CMS in state.

B. Prior Year Project Expenditure Adjustments
The Administration requests to adjust the DTS' baseline budget to reflect estimated project costs in the current and budget years. The net effect of these adjustments will be to reduce expenditures by $5.5 million in the budget year. The DTS is a fee-for-service organization and operates solely upon reimbursements. This BCP requests the funding authority needed to meet customer's needs and requirements.

C. Mainframe CPU Processing Capacity
The Administration requests $5.7 million (DTS Revolving Fund) to purchase mainframe processing capacity in order to meet projected workload increases and upgrade software. The DTS anticipates a need for 962 additional Millions of Instructions Per Second (MIPS) in the budget year. This capacity growth need is primarily driven by population growth and the corresponding impact on departments' IT needs.

D. Midrange Computing Capacity Augmentation (Server Upgrades)
The Administration requests $4.1 million (DTS Revolving Fund) to allow for the replacement of 45 UNIX and 70 Windows servers with 120 new Windows servers and 10 UNIX servers. The DTS has identified a customer-driven workload and notes that vendor options become narrower as new technology replaces older servers, particularly in the area of security software.

E. Enterprise Storage
The Administration requests $1.189 million in 2006-07 (DTS Revolving Fund) to purchase and upgrade existing data storage capacity, as well as enhance connectivity infrastructure, in order to meet anticipated growth needs of DTS' more than 450 customers. Specific needs have been identified in the mainframe storage capacity, midrange storage capacity, tape storage capacity, and connectivity infrastructure.

F. Network Workload Growth
The Administration requests a $4.678 million increase in DTS Revolving Fund spending authority to purchase hardware and higher bandwidth circuits. The department requests increased spending authority to upgrade capacity for Internet connectivity, accommodate workload growth in their support for the California Child Support Automation System, upgrade the backbone router, and replace old firewall infrastructure.

VOTE on Vote-Only Issues A through F:

DISCUSSION ISSUE

1. Unrealized Consolidation Savings and Efficiencies
The LAO has noted, in their *Analysis of the 2006-07 Budget*, that efficiencies anticipated from consolidating data centers were not clearly identified in the Governor's Budget.

LAO Comment: The Legislature began the process of consolidating the state's data centers in 2003-04 as a way to make the state's IT operations more efficient. For instance, a consolidated data center can use its purchasing power to negotiate better prices on hardware and software. In addition, many administrative functions can be merged to reduce staff demands.

The Governor's budget includes no savings associated with the creation of DTS. The department reports that it is currently reviewing its operations to identify efficiencies in five areas (1) IT contracts for hardware and software, (2) other types of contracts, such as security, (3) facilities, (4) personnel and resources, and (5) telecommunications and networks.

The DTS has identified potential savings of $4 million annually related to facilities. At the time this analysis was prepared, however, it had not completed estimates for the other areas.

The department should continue its efficiencies planning and report to the Legislature during budget hearings on expected savings. While some savings may require long-term efforts, we would expect other efficiencies to be implemented in the near term. Any savings for 2006-07 should be integrated into the department's budget proposal during the spring budget process. These savings would then be reflected in reduced rates for DTS' customer departments. Pending the receipt and review of such a proposal, we withhold recommendation on the department's budget.

Staff Comment: In meeting with staff, the DTS explained that starting in the current year, they do expect consolidation savings to be realized. The DTS expects savings of $47.6 million to accrue between 2005-06 and 2008-09 in the facilities, contracts, network operations, and personnel areas. The department has established savings targets for each of the four years. (A May Revision budget adjustment is expected to capture 2006-07 savings.)

Staff Recommendation: Request the DTS report on consolidation savings, including how those savings were identified, number of departments affected, and total savings by each of the following categories: (1) IT contracts for hardware and software, (2) other types of contracts, such as security, (3) facilities, (4) personnel and resources, and (5) telecommunications and networks.

8620 Fair Political Practices Commission

The Fair Political Practices Commission has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974. The objectives of the Political Reform Act are to ensure that election campaign expenditure data is fully and accurately disclosed so that the voters may be fully informed and to inhibit improper financial practices, and regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.

The Governor's budget proposes 73.4 positions (including 14 new positions) and expenditures of $7.002 million in 2006-07. Between 2004-05 and 2006-07, FPPC staffing is expected to grow by 30 percent, from 56.8 positions to 73.4 positions.

VOTE-ONLY ITEM

Extension of "Revolving Door" Provision to Local Officials
The FPPC requests $164,000 and 1.8 positions to meet newly established statutory workload. Chapter 680, Statutes of 2005 (SB 8, Soto) extended the one-year preclusion from lobbying to local elected officials, county chief administrative officers, city managers and administrators, and special district general managers and chief administrators. The additional staff will handle telephone and written advice, legal advice and opinions, and enforcement workload.

VOTE on Vote-Only Item:

DISCUSSION ITEM

Staffing Augmentation for Increased Workload
The Governor's budget includes $700,000 General Fund and 12.2 positions to meet workload requirements stemming from new Legislative mandates and the Political Reform Act. Caseloads and backlogs have increased considerably in recent years: in the enforcement division, new cases nearly doubled from 892 in 2003 to 1751 in 2004. The requested positions will be assigned to enforcement, investigations, legal counsel, legal support, and administrative support. Revenues in the range of $90,000 to $120,000 are expected from enforcement actions.

Staff Comment: The BCP request did not include an operating expense (OE) complement. Without this funding the department would have to either absorb or request at later date the communications, computer equipment, data support, furniture, and other items normally accompanying new positions. At staff request, the FPPC modified their request to recognize an appropriate level of OE. The same number of positions are be requested, however, the position classifications have been adjusted slightly to recognize $43,000 in OE.

Staff Recommendation: AMEND the proposal to recognize the $43,000 OE complement. (This change will result in no change to overall cost or number of positions.)

VOTE:

8940 MILITARY DEPARTMENT

The Military Department is responsible for the command, leadership and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard is to provide military service supporting this state and the nation. The three missions of the California National Guard are to provide: (1) mission ready forces to the federal government as directed by the President; (2) emergency public safety support to civil authorities as directed by the Governor; and (3) support to the community as approved by proper authority. In addition to the funding that flows through the State Treasury, the Military Department also receives federal funding directly from the Department of Defense.

The Governor's budget funds 685.9 positions (including 17 new positions) and $111.5 million in expenditures ($38.1 million General Fund, $62.0 federal funds, and $11.4 in other funds and reimbursements).

VOTE-ONLY ITEM

A. Finance Letter: State Active Duty Increase
The Administration requests a decrease of $470,000 ($112,000 General Fund) to reflect the net effect of the annual Congressionally-mandated State Active Duty pay adjustment, effective January 1, 2006.

VOTE on Vote-Only Item:

DISCUSSION ITEMS

1. Finance Letter: Second Youth Challenge Program
The Administration requests $3.9 million ($900,000 General Fund) and 17.8 positions in 2006-07, and $3.3 million ($1.4 million General Fund) and 29 positions in 2007-08 to establish a second Youth Challenge Program that will serve at-risk 16 – 18 year-olds who have dropped out of school, are unemployed, and meet other criteria. The Military Department received a one-time federal appropriation of $1.7 million to develop facilities to support a new 200 person complex. The federal government will contribute $1.9 million ongoing for this program.

The U.S. Congress established the Youth ChalleNGe program in 1992 to address a burgeoning problem with school drop-outs. The first Youth ChalleNGe Program was established in California in 1998 at Camp San Luis Obispo. That program currently accepts 300 students a year in two classes (150 per class), and graduates about 100 per class. (Students drop out for various reasons, including drug use, violation of camp rules, or voluntarily.) Student placement data shows that since inception, between 67 and 91 percent of program graduates have returned to school and/or gone into full-time employment.

The department currently turns away approximately 400 students annually from Camp San Luis Obispo due to insufficient class space. The new facility at Los Alamitos would alleviate some of the demand by accepting 200 students a year.

Staff Comment: No less than at the time Camp San Luis Obispo was first established, a Youth ChalleNGe program at Los Alamitos suggests that the Legislature examine the policy of using the state's military resources to rehabilitate at-risk youth. Additionally, alternative funding options such as requiring local beneficiaries to bear the expense or diverting resources from other prevention programs should be explored.

Staff Recommendation: Request the department respond to the staff comments, explaining specifically why this is a role for the military department, efforts taken to identify other funding sources for the Los Alamitos facility, and why this matter is not better evaluated by a policy committee.

2. Civil Support Retention Team Bonus

The California Military Department requests $85,000 General Fund for annual retention bonuses of $2000 each to 44 members of the Weapons of Mass Destruction Civil Support Teams. These payments are consistent with AB 690 (Saldana, 2005), which authorizes a state retention bonus in the amount of $2,000 to be awarded annually to a member of the California National Guard serving on the Weapons of Mass Destruction Civil Support Team, provided that the member is a certified hazardous materials specialist or technician. The $85,000 requested includes application of a 97 percent staffing ratio.

Staff Comment: This issue was held open on March 9 and staff directed to review the statutory requirement. Chapter 155, Statutes of 2005 authorized a state retention bonus in the amount of $2,000 to be awarded annually to a member of the California National Guard Weapons of Mass Destruction Civil Support Team, as specified, provided that the member is a certified hazardous materials specialist or technician. The policy committee (Veterans Affairs) may be the more appropriate venue to amend this law.

Staff Recommendation: APPROVE the BCP.

VOTE:

3. Headquarters Complex

The California Military Department requests $1 million General Fund to acquire a two-year purchase option on 30 acres of land at the former Mather Air Base. This purchase option is intended to secure land for later construction of a new headquarters complex. The new headquarters complex would be a four-story complex including offices, personnel and work areas, a cafeteria, lockers and fitness center, assembly hall, classrooms, conference rooms, and other spaces deemed necessary for a headquarters complex. The current estimate for the entire project (design through construction) is $98.5 million ($34.4 million General Fund and $64.1 million federal funds). Six facilities in Sacramento and in San Luis Obispo would be consolidated into the new space.

The lease on the existing headquarters facility extends through 2017. The establishment of a new headquarters building (from design to occupancy) will take approximately six years.

Staff Comment: At the March 9, 2006, hearing, the Subcommittee held open the request and directed the department to provide staff with a department space management plan. In response, the department has provided information on their statewide properties and replacement/restoration plans, and clarified the financial benefits of purchasing the headquarters facility. The new headquarters complex is expected to save the state between $31 and $46 million over the life of the lease-revenue bond, relative to the current lease cost. Additionally, the new facility will meet federal force protection requirements.

This BCP represents a commitment by the state to build a headquarters facility at Mather Air Field at an estimated state cost of $34 million General Fund, matched by $64 million in federal funds.

Over 90 percent of the state's 109 armories are over 40 years old, a situation that has created a pressing need to upgrade or replace these facilities. The department's latest Five-Year Infrastructure plan lays out the department's project priorities, including the creation or overhaul of nine armories. The Legislature will closely monitor the rate of overhaul and repair at these nine armories, as well as the material conditions at all others, in order to ensure that readiness is not degraded in any part of the state.

Staff Recommendation: APPROVE the BCP.

VOTE:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, April 27, 2006
9:30 or Upon Adjournment of Session
Room 112

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0552 Office of the Inspector General

The Office of the Inspector General (OIG) has the responsibility for oversight of the state's correctional system through audits and investigations of the boards and departments within the Youth and Adult Correctional Agency. Chapter 969, Statutes of 1998, changed and expanded the role of the Inspector General and re-established the OIG as an independent entity reporting directly to the Governor. Chapter 736, Statutes of 2004 (SB 1400, Romero), established the Bureau of Independent Review within the OIG, which ensures that internal affairs cases of the CDC and the CYA are handled in a timely and professional manner, through the oversight of investigations and employee discipline at these departments.

OIG – Summary of Program Expenditures

	(dollars in thousands)				
Program	**2004-05**	**2005-06**	**2006-07**	Change	Percent Change
Office of the Inspector General	$7,150	$15,361	$15,225	-$136	-0.9%
Totals	**$7,150**	**$15.361**	**$15,225**	**-136**	**-0.9%**
Authorized Positions	**38.9**	**94.4**	**93.6**	**-0.8**	**-0.8%**

Budget Request. The budget proposes $15.2 million for the OIG, which is a decrease of $136,000 (0.9 percent) from estimated current-year expenditures.

Issue Proposed for Vote-Only

Position Reclassification.

Request. The budget proposes to permanently convert 4.8 Deputy Inspector General Positions to 4.0 Assistant Inspector General Positions within the OIG's Bureau of Independent Review, convert an Associate Governmental Program Analyst position to a Staff Services Manager II position in the Administration Unit, and redirect $67,000 to overtime.

Staff Recommendation. No issues have been raised regarding this request. Staff recommends approval as budgeted.

Action

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, all the agencies that previously reported to the Youth and Adult Correctional Agency were consolidated in to the Department of Corrections and Rehabilitation (CDCR) pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero).

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to improve public safety through evidence-based crime prevention and recidivism reduction strategies. The CDCR is organized into twelve programs: Corrections and Rehabilitation Administration; Corrections Standards Authority; Juvenile Operations; Juvenile Education, Vocations, and Offender Programs; Juvenile Parole Operations; Juvenile Health Care Services; Adult Operations; Adult Parole Operations; Board of Parole Hearings; Community Partnerships; Adult Education, Vocations, and Offender Programs; and Correctional Healthcare Services.

Budget Proposal. The budget proposes total expenditures of $8.1 billion ($7.8 billion General Fund and $241 million other funds) and 60,966 positions for the CDCR. This represents an increase of $364 million ($383 million General Fund), or about 4.7 percent, and 2,357 positions above the revised 2005-06 budget. Table 1, below, highlights the expenditures for the major programs within the CDCR for the current year and the budget year.

CDC – Summary of Program Expenditures

	Expenditures *(dollars in thousands)*			**Percent**
Program	**2005-06**	**2006-07**	**Change**	**Change**
Administration	$208,681	$243,649	$34,968	16.8%
Corrections Standard Authority	263,196	244,514	-18,682	-7.1%
Juvenile Operations	178,589	176,337	-2,252	-1.3%
Juvenile Education and Programs	138,523	179,404	40,881	29.5%
Juvenile Parole	40,468	38,734	-1,734	-4.3%
Juvenile Healthcare	56,135	62,119	5,984	10.7%
Adult Operations	4,713,759	4,868,653	154,894	3.3%
Adult Parole	717,983	693,504	-24,479	-3.4%
Board of Parole Hearings	85,416	89,493	4,077	4.8%
Community Partnerships	1,858	7,727	5,869	315.9%
Adult Education and Programs	236,608	271,376	34,768	14.7%
Adult Healthcare	1,052,898	1,182,755	129,857	12.3%
Total	**$7,694,114**	**$8,058,265**	**$364,151**	**4.7%**
Total Authorized Positions	**58,608.8**	**60,966.2**	**2,357.4**	**4.0%**

Corrections Standards Authority

The Corrections Standards Authority (CSA) (formerly the Board of Corrections) 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 CSA also inspects local adult and juvenile detention facilities; administers grant programs that respond to facility construction needs, juvenile crime and delinquency; and conducts special studies relative to the public safety of California's communities

The CSA is composed of 15 members, 12 of whom are appointed by the Governor and confirmed by the Senate and three of whom are designated in statute. The appointed members represent specific elements of local juvenile and adult criminal justice systems and the general public. The statutory members are the Secretary of the California Department of Corrections and Rehabilitation, who serves as Chair of the CSA, and the directors of the Adult Operations and Adult Programs (formerly the Department of Corrections) and Division of Juvenile Justice (formerly the California Youth Authority).

Corrections Standards Authority - Source of Funds

	(dollars in thousands)				Percent
Program	**2004-05**	**2005-06**	**2006-07**	Change	Change
General Fund	$137,866	$206,391	$205,757	-$634	-0.3%
Corrections Training Fund	2,491	2,384	2,566	182	7.6%
Federal Trust Fund	30,472	54,112	35,873	-18,239	-33.7%
Reimbursements	288	309	318	9	2.9%
Totals	**$171,117**	**$263,196**	**$244,514**	**-$18,682**	**-7.1%**

Budget Overview. The budget for the CSA proposes total expenditures of $244.5 million, which is a decrease of $18.7 million, or 7.1 percent from estimated current-year expenditures. This decrease is due primarily to reductions in federal grant programs administered by the CSA The federal fund portion of the proposed budget is $35.9 million, a decrease of $18.2 (33.7 percent) from estimated current-year expenditures.

The General Fund portion of CSA's budget is proposed to decrease by $634,000 (0.3 percent) for a total of $205.8 million.

The proposed funding for state operations is $76.3 million, which is an increase of $1.1 million (13.1 percent) from the current year. The number of authorized personnel would remain the same at 102.6 positions. The proposed local assistance budget is $237.2 million, which is a decrease of $17,580 million, or 6.9 percent, from estimated current-year expenditures.

FINANCE LETTERS PROPOSED FOR CONSENT / VOTE-ONLY

A. Reappropriation.

Finance Letter Request. This Finance Letter requests reappropriation of federal VOI/TIS construction funding. This reappropriation would allow the remaining federal VOI/TIS funds to be used for completion of the local construction and expansion projects.

B. Federal Trust Fund Authority for the Corrections Standards Authority.

Finance Letter Request. This Finance Letter requests an increase of $571,000 from the Federal Trust Fund to improve standards compliance monitoring of juvenile detention facilities, and expand these activities to include the monitoring of the juvenile detention facilities operated by the Division of Juvenile Justice. The CSA indicates that it will hire consultants to develop and implement a plan to ensure that minors and adults are properly separated in DJJ facilities. Currently the CSA does not monitor DJJ facilities.

Staff Recommendation. No issues have been raised concerning these Finance Letter requests. Staff recommends approval of the Finance Letter requests.

Action

DISCUSSION ISSUES

1. Base Budget Issues for CSA

Staff Comments. Several potential issues have been raised concerning the adequacy of the base budget for CSA, which the Subcommittee may wish to explore in further detail. As a result of the reorganization, several functions were transferred from the former CYA to the CSA, with the positions performing those functions also being transferred to CSA. However, the initial allocation of funding provided with the positions was only enough to cover the personal services portion of the funding needed to fill the position and didn't include the OE&E compliment.

The CSA reports that it has 23 vacant positions, or a 22.5 percent vacancy rate. It is possible that some of the positions would have been held open to make up for the fact that the initial allocation of transferred positions did not provide sufficient funds to pay for all of the positions.

Potential Questions
When positions from the former CYA headquarters were transferred to other agencies was the funding for those positions (personal services and OE&E) also transferred?

Does CSA have funding in its budget to cover the personal services and OE&E expenses for its authorized positions for the current year? Will the allotment provided to them in the budget year be sufficient to cover expenses for authorized positions?

For the current year, will funds in the CSA budget be used to offset cost overruns in other areas of CDCR?

Informational Issue

2. Local Juvenile Facility Suitability Reviews

Staff Comments. Last year, the administration proposed and the Legislature approved an increase of $176,000 General Fund and 1.9 positions to do suitability reviews for local juvenile facilities. Last week CDCR and CSA were sued in court over the adequacy of the suitability reviews that are being done by CSA.

The Subcommittee may wish to get an update the lawsuit that was filed, and an update on the positions and funding that were provided to CSA in the budget last year to do this funding.

Informational Issue.

Board of Parole Hearings

The Community Release Board was established in 1977 and renamed the Board of Prison Terms (BPT) in 1980. Under the CDCR reorganization, the Board of Parole Hearings (BPH) was created by combining BPT with the Youth Authority Board and the Narcotic Addict Evaluation Authority. The board considers parole release and establishes the length and conditions of parole for all persons sentenced to prison under the Indeterminate Sentence Law, persons sentenced to prison for specified terms of less than life, and for persons serving a sentence for life with possibility of parole. The board is also responsible for parole revocation hearings and for reviewing applications for clemency. BPH is comprised of 17 members appointed by the Governor and require confirmation by the Senate. Of the 17 commissioners, 12 hear only adult matters, and five hear only juvenile matters.

Budget Overview. The budget proposes $89.5 million from the General Fund for the BPH. The proposal represents an increase of $4.1 million, or 4.8 percent above current-year expenditures. Total authorized positions are proposed to be 433.4, which is an increase of 23.8 positions from the current year. Funding and positions for the BHP has increased significantly in the last several years, mostly in response to the *Valdivia* court case. For example, total authorized positions at the BPH have nearly doubled since 2004-05.

Board of Prison Terms -- Program Expenditures

	***Expenditures** (dollars in thousands)*				**Percent**
Program	**2004-05**	**2005-06**	**2006-07**	**Change**	**Change**
Board of Prison Terms	**$63,873**	**$85,416**	**$89,493**	**$4,077**	**4.8%**
Total Authorized Positions	**220.7**	**409.6**	**433.4**	**23.8**	**5.8%**

Discussion Issues

1. Base Budget Issues for BPH

Staff Comments. Several potential issues have been raised concerning the adequacy of the base budget for BPH, which the Subcommittee may wish to explore in further detail. As a result of the reorganization, several functions were transferred from the former CYA to the BPH, with the positions performing those functions also being transferred to BPH. However, the initial allocation of funding provided with the positions was only enough to cover the personal services portion of the funding needed to fill the position and didn't include the OE&E compliment.

The BPH reports that it has 70 vacant positions, or a 20 percent vacancy rate. It is possible that some of the positions would have been held open to make up for the fact that the initial allocation of transferred positions did not provide sufficient funds to pay for all of the positions.

Potential Questions
When positions from the former CYA headquarters were transferred to other agencies was the funding for those positions (personal services and OE&E) also transferred?

Does BPH have funding in its budget to cover the personal services and OE&E expenses for its authorized positions for the current year? Will the allotment provided to them in the budget year be sufficient to cover expenses for authorized positions?

For the current year, will funds in the BPH budget be used to offset cost overruns in other areas of CDCR?

Informational Issue

2. Adult Offender Appeals Unit

Budget Request. The budget proposes 8 positions and $640,000 to re-establish the Adult Offender Appeals Unit. The unit would process and respond to all appeals submitted by adult prisoners and parolees seeking to redress Board decisions and actions. The purpose of the unit would be to resolve appeals by providing an administrative step in the process before an adult prisoner or parolee files a Writ of Habeas with the courts.

Staff Comments. These positions were eliminated in 2003 by the BPT as part of its Control Section 4.1 reductions for that year.

Staff Recommendation. Staff recommends approval of the request as budgeted.

Action

3. Hearings for Life-Term Inmates

In its *Analysis*, the LAO raised a number of issues related to lifer parole hearing at the BPH.

Background. All offenders sent to state prison by the courts are sentenced to one of four types of terms: determinate, life with the possibility of parole, life without the possibility of parole, and death row. Most inmates are released from prison after serving a set, or determinate, sentence (less early release credits earned for good behavior). However, about 17 percent of all inmates are sentenced to life with the possibility of parole. These "lifers" are sentenced to prison terms such as 25 years to life, meaning they must serve a minimum of 25 years in prison and are only eligible for release to parole based on a decision by the Board of Parole Hearings (BPH), a division of CDCR. If BPH never approves parole release, the inmate would serve the remainder of his/her life in prison. Table 1 below, shows the number of inmates who are sentenced as lifers with the possibility of parole compared to other sentence types.

Prison Population by Sentence Type

As of June 30, 2005

Type of Prison Sentence	Number	Percent
Determinate	131,762	80.3%
Life with possibility of parole[a]	27,921	17.0
Life without possibility of parole	3,232	2.0
Death row	634	0.4
Other	485	0.3
Totals	**164,034**	**100%**

[a] Includes 7,718 third strikers.

Lifer Parole Hearings. There are two primary types of hearings BPH conducts related to lifers. First, BPH holds a documentation hearing within three years of an inmate coming to state prison. At this hearing, a deputy commissioner reviews the inmate's criminal history and other factors, such as education attainment and substance abuse problems, to develop a parole plan for the inmate. This plan identifies the steps the inmate would need to take in order to become a possible candidate for release from prison. The LAO indicates that BPH held between 700 and 1,000 documentation hearings in 2004-05. At the time that their analysis was prepared, the LOA notes that BPH was not able to identify the exact number of documentation hearings held because it does not track that data.

Second, beginning one year before the earliest date at which an inmate is eligible for release based on his prison sentence-referred to as the Minimum Eligible Parole Date (MEPD)-the BPH begins holding parole hearings. At these hearings, the parole panel-made up of one BPH commissioner and one deputy commissioner-reviews the inmate's case file and conduct while incarcerated to determine whether that inmate should receive parole. The LAO reports that according to department staff, the panel's assessment of the danger the inmate poses to public safety is the most important factor in determining whether an inmate is paroled. If the board denies parole for the inmate, the inmate will be eligible for another parole hearing within one to five years. If the inmate is a murderer, he may be eligible for a maximum five-year denial. All other lifers may receive no more than a two-year denial. The BPH conducted about 3,300 parole hearings in 2005, with about 5 percent resulting in approvals of parole.

Budget Request. The BPH currently has about $3 million in funding dedicated for lifer hearings, including funds for 12 commissioners and seven deputy commissioners, as well as support staff. The budget requests an increase of $1.3 million and 13 positions, mostly deputy commissioners. The request is intended to address a projected growth of 4,500 lifer hearings, bringing the total hearings to 10,800 for 2006-07.

The department based its projected increase in hearings primarily on two factors. First, the request assumes a higher workload because the addition of three commissioner positions will allow BPH to operate more parole panels, thereby significantly increasing the number of parole hearings held in the budget year. Second, as it has done historically, the department assumed an increase in lifer hearings commensurate to the projected increase in the total inmate population. The average daily inmate population is projected to increase by about 2 percent between the current year and the budget year.

Issues Raised by the Analyst. Based on its review, the LAO indicates that the department's request is overbudgeted for both documentation and parole hearing workloads. Specifically, the budget assumes that BPH will conduct 3,200 documentation hearings in the 2006-07. However, the LAO estimates that the annual number of documentation hearings is more likely to be about 1,300-less than one-half of the department's estimate. The LAO's lower estimate is based on the rate of lifer admissions to prison in recent years. The BPH states that its higher projected caseload is to reduce a backlog of documentation hearings.

In addition, the department's budget proposal assumes that it will hold almost 7,600 parole hearings in the budget year. However, based on prior year data and the department's estimate of its parole hearing backlog, the LAO estimates that the department is more likely to hold about 6,000 hearings in the budget year. The reason for BPH's higher estimate is that it reflects the number of hearings the department would be capable of holding with 12 commissioners, rather than reflecting the number of lifers who will actually need parole hearings in the budget year.

Analyst's Recommendation. The LAO recommends reducing the department's request for budget-year funding by $503,000 and 4.8 positions (3.6 deputy commissioners and 1.2 support staff) based on their finding that the department has overbudgeted its workload for documentation and lifer hearings. The LAO believes that the revised funding level would provide sufficient staff for about 2,000 documentation hearings (consisting of an estimated 1,300 new cases and 700 backlogged) and 6,000 parole hearings. This level of funding would allow the department to roughly double its number of hearings compared to the prior year, thereby contributing to a significant reduction in the backlog of cases.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends reducing the budget year funding by $503,000 and 4.8 positions for this function.

Action

4. Operational Problems With Lifer Hearings

Concerns Raised by the Analyst. In its review, the LAO raised a concern that three problems within the department contribute to operational inefficiencies and hearing backlogs. In particular, the LAO found that the absence of a centralized database for lifers, commissioner vacancies, and delays in producing psychiatric evaluations result in parole hearing backlogs and limit the department's ability to project and manage its caseload. The LAO notes that unless steps are taken to address these problems, they are likely to grow worse in future years as the lifer population continues to increase steadily each year.

Lack of Centralized Lifer Database. The department does not have a centralized scheduling and tracking system for its lifer caseloads. This makes it difficult for the department to manage its growing caseload and accurately project the number of hearings that will occur in the coming year. The BPH cannot identify the number of inmates that will require documentation hearings because it does not have a centralized database that identifies when a lifer arrives in state prison. The department is also unable to track the future workload implications resulting from denials and postponements.

Commissioner Vacancies. Commissioner vacancies sometimes lead to postponements and delays of hearings. According to the department, it has operated with an average of about three commissioner position vacancies in recent years, thereby reducing the number of hearing panels that can be formed and the number of hearings that can be scheduled.

The department usually schedules hearings a couple of months in advance because of the need to notify attorneys and victims' families who may participate in the proceedings. Consequently, a long-term or unanticipated vacancy can cause as much as a couple months worth of cases to be postponed, contributing to the backlog of cases. Because the department pre-schedules all commissioners to hearing panels, there are none that can be used to fill in when vacancies occur. According to department records, about 28 percent of all cases postponed in the last three years were due to the scheduled panel being unavailable.

Psychiatric Reports Not Completed. Cases are also frequently postponed when the department does not complete the file necessary for the hearing to take place. According to BPH, the most common reason that a file is not completed is because a psychiatric evaluation of the inmate has not been completed. These evaluations are frequently requested by the department or attorneys. However, the department has difficulty completing these evaluations in a timely fashion because of high vacancy rates among psychiatric staff in state prisons. According to a report by the State Controller's Office, about 29 percent of psychiatric staff positions in state prisons were vacant as of December 31, 2005. According to BPH, approximately 18 percent of hearing postponements over the last three years were due to a failure to complete an updated psychiatric report.

Options for Improvement Raised by the Analyst. The LAO recommends that the Legislature require the department to develop a plan for implementing a scheduling and tracking system for lifer hearings. This would allow the department to manage its caseload better and improve its ability to project caseload growth for budget purposes. A centralized scheduling and tracking system could potentially be developed by modifying existing database systems used for other purposes, for example scheduling and tracking revocation hearings.

There are also administrative changes the department can make to address the backlog of lifer cases. The LAO notes that the department has already formed an intradepartmental committee to explore ways to improve the lifer process. One step the department should consider is using some commissioners as "substitutes" to fill in when vacancies occur. This change could be accomplished relatively easily because of the expansion of commissioner positions under the reorganization from 9 to 12. For example, the three additional positions could be used as substitutes when vacancies occur. The LAO estimates that this could allow the department to reduce the number of hearing postponements by about 28 percent. At those times when there are more substitute commissioners available than vacancies that need to be filled, the substitutes could be used to address on-going BPH workload, for example by working in place of deputy commissioners on lifer panels, documentation hearings, or even revocation hearings.

The department has indicated that one of the main issues that the lifer committee is working on is the timeliness of psychiatric evaluations. Some of the issues CDCR is attempting to address include whether updated psychiatric evaluations are necessary for all lifers (such as those who do not have a history of mental illness), the most appropriate evaluation tool to use, and the most appropriate staff to conduct these assessments. Each of these issues is important for the department to address. In addition, it is important that the department address its on-going vacancy problem among psychiatric staff.

Analyst's Recommendation. The LAO recommends that the Legislature adopt supplemental report language requiring the department to report by January 10, 2007, on the actions taken based on the recommendations of its lifer committee, as well as any progress made in reducing the lifer backlogs. The following supplemental report language is consistent with this recommendation:

> Item 5225-001-0001. No later than January 10, 2007, the California Department of Corrections and Rehabilitation shall provide the Chair and Vice Chair of the Joint Legislative Budget Committee and the fiscal committees of each house a report about the department's efforts to reduce the backlog of lifer hearings. This report shall include an estimate of the backlog of documentation and parole hearings, as well as identify the specific recent actions taken by the department to reduce the backlogs of hearings.

<u>Potential Questions</u>

Indeterminate life "lifer" hearings that are scheduled but then postponed on the day of the hearing are costly. D.A.'s, victims, the two-person panel itself and CDCR staff are all assembled only to be told there is no psychological evaluation of the inmate, there is no certified translator for the inmate, or the board packet of information is incomplete in some way. Some last minute occurrences are inevitable, but what is the Board doing to reduce the number of hearing unnecessarily postponed hearings?
What the backlog for lifer hearings?
How is the backlog defined?

Action

5. Finance Letter – Rutherford Funding Request.

Finance Letter Request. This Finance Letter requests 49.5 positions and $7.2 million related to the Rutherford v. Schwarzenegger lawsuit. The proposal requests the following:

- 4 Legal Analyst positions and $300,000 to perform workload related to reviews of hearings, research and writing decision review summaries for lifer parole inmates who have been granted parole by the BPH. The workload assumes that the BPH will complete 288 lifer parole grants in the budget year.
- 11.3 positions and $1.1 million to accommodate the increased volume of parole hearings.
- 22 positions and $3.6 million for psychologists and support staff to conduct evaluations of inmates services indeterminate sentences pending parole suitability hearings. The proposal includes funding for 17 staff psychologists, 9 contract psychologists, and 2 senior supervising psychologists.
- 7.2 positions and $1.7 million related to case records processing.
- 5 positions and $517,000 for Investigation Unit. Part of this request includes $75,000 to establish a contract for expert evaluators to conduct forensic evaluations of inmate cases that claim to have suffered the effects of Intimate Partner Battering.

This lawsuit was originally filed in May 2004, alleging that the Board violated due process rights by failing to hold a timely lifer parole hearing for the plaintiff. In the case, the CDCR has stipulated to liability and the parties are currently negotiating a remedial plan.

Analyst's Recommendation. The LAO recommends approval of the department's request with two technical adjustments relating to overtime for administrative staff, resulting in a total reduction of $973,000. At this time, the department has not provided sufficient justification for these funds. The LAO recommends approval of the remaining funds requested in this proposal, totaling $6,179,000. The request is consistent with the court settlement agreement to address the issues that contribute to substantial backlogs in lifer hearings.

Psychological Evaluations. This request includes funding for psychologists to complete psychological and risk assessment evaluations of all lifer inmates prior to hearings. The Board has not made a final determination of what assessment tools will be utilized, but they are considering the use of several different evaluations, including a general risk assessment, a mental health evaluation, an assessment of psychopothy, and a sex offender evaluation. Given the uncertainty about which evaluations will be utilized, as well as potential difficulties recruiting and retaining additional psychological staff, the LAO suggests that the committees require the department to report at hearings to provide more information on the specific assessment tools it will use and the ability of the department to fill these positions.

Staff Recommendation. Staff recommends approval of the $973,000 reduction recommended by the LAO. In addition, staff recommends approval of the psychologist positions on a two-year limited-term basis pending additional discussions on the use of a validated risk assessment tool as a potential replacement or enhancement of the psych. Evaluation.

Action.

6. Finance Letter -- District Attorney Representation in Valdivia

Finance Letter Request. The budget proposes 16 positions and $6.8 million to provide for training and district attorney representation for the state in parole revocation hearings.

The funding would provide for the following:

- $4.2 million to reimburse district attorneys to represent the state at parole revocation hearings.
- $356,000 for Deputy Commissioners to receive specialized training in administrative law.
- $701,000 for additional training for parole agents.
- $1.4 million and 16 positions to provide additional staff at the Office of Victim and Survivor Services to coordinate victim and witness appearances at parole revocation hearings for district attorneys.

Concerns Raised by the Analyst. The LAO raised several concerns with this proposal. The LAO notes that the department's proposal identifies the need for district attorney involvement based on there being "no one present to protect victims and witnesses from objectionable questioning and to elicit testimony to best support the State's charges." According to the department, the resulting outcome is parolees being released back into the community. However, the state's interest is currently represented at hearings by CDCR deputy commissioners and parole agents. Moreover, the department has not provided data demonstrating that parolees are being released in significant numbers. In fact, the LAO notes that according to CDCR's Spring 2006 Population Projections, parole revocations increased by four percent between 2004 and 2005. Second, the addition of district attorneys to revocation hearings could result in additional costs not identified in this proposal. Specifically, the additional participants in the hearings would likely result in longer hearings, causing unbudgeted workload for deputy commissioners and support staff. The amount of this additional workload is unknown. Moreover, to the extent that hearings take longer and workload is increased, there could be delays in hearings being heard on time which would hinder the department's ability to comply with the *Valdivia* court orders. Third, the LAO notes that it is unclear the degree to which district attorneys will want to participate in all revocation hearings given existing caseloads in county courts, as well as the full costs to these offices associated with participating in revocation hearings. Based on conversations with representatives of the California District Attorneys Association, the LAO indicates that they were not involved in the development of this proposal and have not taken a formal position at the time of the LAO's review.

Based on its recommendation against funding for district attorney participation in revocation hearings, the LAO indicates that the request related to training for parole agents and deputy commissioners is unnecessary. These funds are requested by the department to train staff on the changes to their roles in revocation hearings in light of the proposed addition of prosecutors.

The LAO did not raise concerns with the department's request for $1.4 million to establish positions responsible for notifying witnesses about revocation hearings and coordinating their appearances

Staff Recommendation. Staff recommends approval of the $1.4 million for the Office of Victim and recommends holding open the training and D.A. proposals at this time.
Action

Division of Juvenile Justice

The mission of the Division of Juvenile Justice is to protect the public from criminal activity by providing education, training, and treatment services for youthful offenders committed by the courts; assisting local justice agencies with their efforts to control crime and delinquency; and encouraging the development of state and local programs to prevent crime and delinquency.

Budget Overview. The Budget proposes expenditures of $456.6 million, an increase of $24.9 million, or 10.4 percent from the current year. The budget assumes $xx.x million in reimbursements will come from fees that counties pay for the wards they send to the CYA.

Division of Juvenile Justice and California Youth Authority Summary of Program Expenditures

	***Expenditures** (dollars in thousands)*							
Program	**1999-00**	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
Institutions & Camps	$293,968	$309,038	$326,135	$322,117	$328,661	$339,668		
Parole Services	48,639	62,406	55,074	54,160	43,030	40,195		
Education Services	50,081	52,660	50,877	47,869	44,871	40,386		
Youth Authority Board					1,509	3,232		
Administration	21,121	27,154	28,417	28,364	27,537	31,154		
Distributed Admin	(19,257)	(24,320)	(26,827)	(26,780)	(26,668)	(30,895)		
Juvenile Operations							$178,589	$176,337
Juvenile Parole							40,468	38,734
Education and Programs							138,523	179,404
Healthcare							56,135	62,119
Total	**$394,552**	**$426,938**	**$433,676**	**$425,730**	**$418,940**	**$423,740**	**$413,715**	**$456,594**
Change		$32,386	$6,738	-$7,946	-$6,790	$4,800	-$10,025	$42,879
Percent		8.2%	1.6%	-1.8%	-1.6%	1.1%	-2.4%	10.4%
Ward Pop (June 30)	**7,380**	**6,776**	**5,847**	**4,879**	**3,888**	**3,205**	**2,920**	**2,680**
Percent Change		-8.2%	-13.7%	-16.6%	-20.3%	-17.6%	-8.9%	-8.2%
Parole Pop (June 30)	**4,642**	**4,355**	**4,160**	**4,089**	**4,037**	**3,643**	**3,420**	**3,175**
Percent Change		-6.2%	-4.5%	-1.7%	-1.3%	-9.8%	-6.1%	-7.2%
Avg. Cost per Ward	**$46,128**	**$51,502**	**$59,986**	**$69,284**	**$85,411**	**$107,236**	**$121,877**	**$149,236**
Avg. Cost per Parolee	**$9,620**	**$13,645**	**$12,936**	**$13,131**	**$10,591**	**$10,467**	**$11,459**	**$11,746**
Positions								

* Estimated
** Proposed

Staff Comments. Staff notes that the average cost per ward calculation in the table above includes Administration costs up through 2004-05, but does not include Administration costs for 2005-06 and 2006-07, since these costs are now part of the CDCR administration number and are not displayed separately for the DJJ. If you assume that the DJJ share of Administration costs is equal to its amount in 2004-05, then the cost per ward calculation increases to approximately $132,000 in the current year and $160,000 in the budget year. Staff notes that if you add the costs of the proposed Finance letters, the estimated cost per ward in the budget year climbs to approximately $169,000.

Discussion Issues

1. Department of Mental Health General Fund Transfer – Juvenile Justice

Budget Request. The budget proposes a permanent transfer of $3.6 million General Fund from the DJJ budget to the Department of Mental Health to reflect an agreement by both departments to transfer funds from CDCR that are currently reimbursed to DMH for costs associated with the care and treatment of CDCR's juvenile offenders.

Staff Recommendation. Staff recommends approval as budgeted.

Action

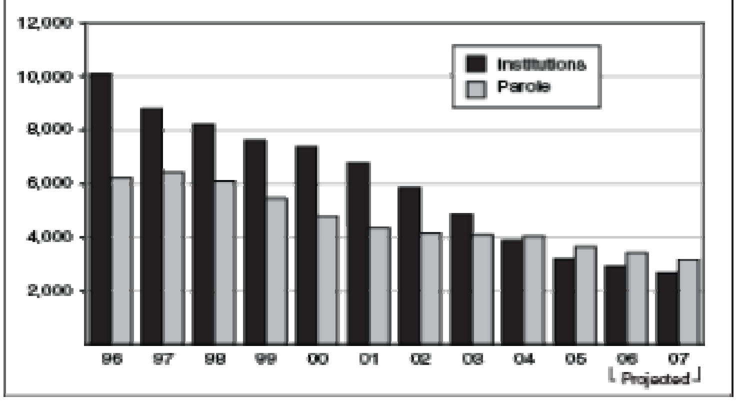
2. Juvenile Offender Population.

As of June 30, 2005, 3,205 wards resided in DJJ facilities. The department forecasts the ward population will decrease to 2,680 wards by June 30, 2007, a projected two-year decrease of 525 wards, or about 16 percent, compared to the beginning of the current fiscal year. The projected decrease is the result of a continuing trend of declining admissions to youth correctional facilities. The declining admissions are primarily the result of fewer juvenile court commitments to state facilities. Figure 1 shows the year-end ward and parole populations for the period 1996 through 2007.

Figure 1

Juvenile Institutions and Parole Population

1996 Through 2007
As of June 30 of Each Year



As of June 30, 2005, CDCR supervised 3,650 youthful offenders on parole. The department forecasts the parole population will decrease to 3,175 by June 30, 2007, a projected two-year decrease of 475 parolees, or 13 percent. The projected decrease is the result of a continuing trend of declining admissions to youth correctional facilities. As Figure 1 shows, beginning in 2004, the parole population is slightly greater than the institution population and is projected to remain greater through 2007. This is primarily a result of (1) a declining rate of new admissions into DJJ youth correctional facilities and (2) an increasing average length of time that a ward is on parole.

Fiscal and Housing Implications of Population Changes. While the ward and parolee populations have declined, these populations have not declined as rapidly as assumed in the *2005-06 Budget Act*. As a result, the budget requests an increase of $5.7 million in the current year and $3.3 million in the budget year. Most of this amount is requested to staff and operate additional living units to accommodate the higher-than- anticipated ward population.

Analyst's Recommendation. The LAO withholds recommendation on the caseload funding request pending receipt of the May Revision.

Staff Comments. The Administration will be proposing changes in its population proposal as part of the May Revision. As of April 5, the ward institution population was 2,917, which is 107 fewer than was anticipated in the January budget. Based on experience in the current year, it is likely that the May Revise will slightly reduce the estimated population current year and the budget year.

Staff Recommendation. Staff recommends holding open the population proposal pending the Mat Revise.

Action

3. Base Budget Issues for DJJ

Staff Comments. Several potential issues have been raised concerning the adequacy of the base budget for DJJ, which the Subcommittee may wish to explore in further detail. As a result of the CDCR reorganization, several functions were transferred from the former CYA to other agencies within CDCR. However, the initial allocation of funding provided to those other agencies that received those positions was only enough to cover the personal services portion of the funding needed to fill the position and didn't include the OE&E compliment. The CDCR indicates that this due to the fact that there was not enough money in the old CYA headquarters budget. It is possible that over the course of several years, positions were held open in the old CYA headquarters to make up for cost overruns in other areas.

<u>Potential Questions</u>
Is the base budget for the DJJ sufficient to carry out the currently authorized workload?
For the current year, will funds in the DJJ budget be used to offset cost overruns in other areas of CDCR?

Informational Issue

4. Implementation of the Farrell Remedial Plans.
The Table below summarizes the positions and funding requested to implement the various Farrell Remedial Plans. Last year, as part of the budget, the Legislature approved funding for four remedial plans that have been adopted by the court -- Education, Sex Offender Treatment, Disabilities, and an Interim Mental Health. The funding provided for the current year totals \$23.9 million, of which \$14.8 million was from Proposition 98 funds as part of the Education Remedial Plan.

Projected Costs for the *Farrell* Remedial Plans*
(dollars in thousands)

	2005-06		2006-07		2007-08	
Remedial Plan	**Positions**	**Funding**	**Positions**	**Funding**	**Positions**	**Funding**
Funding Provided in 2005-06 Budget						
Education Remedial Plan	208	$17,088	208	$20,886	208	$20,886
Interim Mental Health Remedial Plan	15	$1,215	15	$1,015	15	$1,015
Sex Offender Treatment Remedial Plan	20	$2,464	43	$4,394	43	$4,394
Disability Remedial Plan	12	$3,108	12	$2,811	12	$1,011
Subtotal Funding Provided in 205-06 Budget	*255*	*$23,875*	*278*	*$29,086*	*278*	*$27,306*
Funding Proposed in January 10 Budget						
Healthcare Remedial Plan			113	$7,530	113	$9,000
Safety and Welfare Remedial Plan**	105	$5,163	409	$47,470	620	$69,662
Subtotal Funding Proposed in January 10 Budget	*105*	*$5,163*	*522*	*$55,000*	*733*	*$78,662*
Finance Letter Proposals						
Safety and Welfare Remedial Plan Adjustments and Fund Shifts	-22	-$2,125	-23	-$4,536		
Mental Health Remedial Plan			186	$14,778		
Space Requirements to Implement Farrell		$2,948		$12,469		
Subtotal Finance Letter Proposals	*-22*	*$823*	*163*	*$22,711*		
Totals	**338**	**$29,861**	**963**	**$106,797**		

* Estimated costs for 2006-07 and future years are subject to adjustments due to actual DJJ population.
** DJJ will be seeking current year funding for the Ward Safety Plan in legislation.

***Educational Remedial Plan Resources**.* The Legislature approved $17,088,000 General Fund, of which $14,786,000 is Proposition 98 and $2,302,000 is non-Proposition 98, to implement the Education Remedial Plan required by the *Farrell v. Allen* lawsuit and submitted to the Court on March 1, 2005. The funding included funds for 208 new positions to begin adjusting the ward to teacher ratios to the levels in the Remedial Plan by the end of the 2006-07 fiscal year. Of the new positions requested 80 are teacher positions, 10 are special education teachers, and 40 are teaching assistants.

Staff Comments. The DJJ has indicated that it has recently made some inroads with respect to filling the education positions. They have indicated that there are about 118 total education vacancies, but that they are in the middle of a recruitment cycle which in which they hope to fill nearly all the positions. .

<u>Potential Questions.</u>
What are the performance measures/outcomes (including timelines) that DJJ can point to illustrate the success/failure of implementation to-date?
How would DJJ assess the success of implementation to-date of the Education Remedial Plan?
Did DJJ have some measures or goals it was seeking to achieve in the current year with the new positions? Where those goals achieved?
Were fewer classes cancelled as a result of more teachers being available? Did DJJ meet any preset goals for reducing the number of classes dark classrooms?
How will any unused funds in the current year be spent?

Sex Offender Treatment Remedial Plan Resources. The Legislature approved an increase of $2,464,000 General Fund and 19 positions to implement the Sex Offender Treatment Remedial Plan required by the *Farrell v. Allen* lawsuit that was submitted to the court on May 16, 2005.

Staff Comments. The department will be responding to the Subcommittee with information regarding whether there have been implementation or hiring delays with the positions and funding requested. The proposal approved last year provided for the new positions to come on-line throughout the current fiscal year.

<u>Potential Questions</u>
What are the performance measures/outcomes (including timelines) that DJJ can point to illustrate the success/failure of implementation to-date?
How would DJJ assess the success of implementation to-date of the Sex Offender Treatment Remedial Plan?
Have the requested positions been hired?
If there have been implementation delays with this program, how (or on what things) will the money appropriated for this program be spent?

Informational Issue

5. Safety and Welfare Remedial Plan.

The Budget and Finance Letters propose funding of $42.9 million and 386 positions for the Safety and Welfare Remedial Plan. The Remedial plan envisions a multiyear timeframe to implement the Safety and Welfare Remedial Plan. When the plan is fully rolled out in 2009-10, the annual cost is proposed to be $94 million for support of 828 additional staff. The budget notes that the requested resources are based on an average daily population of 2,800 incarcerated wards. The actual amount of staff and funding needed in the out-years would be adjusted through the annual population adjustment process. This represents a significant increase in funding and staffing levels. In 2004-05, support for the state's youth correctional system totaled $420 million and about 3,700 positions.

The major features of the plan include the following:

- Classify facilities and living units according to the types of wards that each facility and unit is best suited to accommodate.
- Acquire an objective risk/needs assessment instrument for proper placement and treatment of wards in DJJ facilities and living units.
- Match the type and intensity of supervision and programming to wards' risk level and educational/treatment needs.
- Replace punitive measures against violent and disruptive wards with intensive behavioral treatment (such as individual counseling).
- Increase staff-to-ward ratios in facilities by reducing living unit sizes and hiring additional custody and treatment staff.
- Train staff on establishing a positive and therapeutic environment for wards based on "community norms" such as teamwork, accountability, and nonviolent resolution of conflict.
- Close most or all of the current DJJ facilities and replace them with smaller facilities designed to serve specific types of youthful offenders, such as sex offenders or wards with mental health disorders.

A key element of the plan involves gradually reducing the number of wards in each living unit to less than 40. Currently, up to 60 wards occupy certain living units. To do this, the plan proposes to reopen living units that are currently closed and transfer a number of wards to them. The plan proposes to phase in additional custody and treatment staff in the units over a four-year period. In the budget year, 20 living units would receive additional staff, followed by another 20 units in 2007-08, and the remaining units (up to about 60) by the end of 2009-10.

<u>Potential Questions</u>

How is/will DJJ doing to demonstrate that it can implement the changes envisioned in the Remedial Plans?

Has DJJ identified the hurdles to implementations? What are they and how do you overcome them?

What are the performance measures/outcomes that will be used to define success?

What are the timelines for the performance measures/outcomes? Have short-term targets and goals been set? What is the baseline against which you will be measuring?

Has the CYA considered changes to reduce its population?

Has the DJJ considered alternatives to implementing reform such as focusing the reforms in one institution?

<u>Concerns Raised by the Analyst</u>

Implementation Timelines Needed. While the proposed rehabilitative model has merit, the LAO has raised concerns that the department's initial implementation plan is not sufficiently detailed. The LAO notes that this makes it difficult for the Legislature to evaluate the feasibility of the proposed reforms. For example, the administration proposes to transition 20 living units, including five currently closed units, to the new model in the budget year. Yet, the Governor's proposal does not provide a time line detailing exactly when, and in what order, these conversions will occur throughout the year.

Ability to Fill Requested Positions. The LAO notes that an important element of the proposal to implement the Safety and Welfare Remedial Plan involves adding a total of about 250 youth correctional counselors, senior youth correctional counselors, youth correctional officers, parole agents, sergeants, and lieutenants to DJJ facilities beginning in the budget year. These staff, which have peace officer status, are responsible for supervising wards and ensuring their safety. Based on a report prepared by the State Controller's Office, however, the LAO notes that about 10 percent (or 150) of these positions were vacant as of December 2005. The CDCR expects the number of vacancies among youth correctional peace officer positions to increase further in the current and budget years due primarily to the enhanced retirement benefit (3 percent at 50) provided under the Bargaining Unit 6 contract. The budget proposes to expand the capacity of the training academy for youth correctional staff beginning in the budget year. Yet, even taking into account the proposed expansion, the department anticipates vacancies to grow to about 350 in 2006-07, a vacancy rate of over 20 percent. Given this projection, the LAO indicates that it is unclear how the department plans to fill hundreds of *new* positions as proposed in the Governor's budget.

The major elements of the Safety and Welfare Plan are highlighted below.

1. Hire Subject Matter Experts. The BCP proposes to contract for subject matter experts to provide technical assistance for the development and implementation of a classification system and rehabilitation treatment services including violence reduction, gang integration, cultural change, re-entry services, and female offenders. The estimated costs are $440,000 in the current year, $880,000 in the budget year, and $225,000 in 2007-08.

   Finance Letter Changes. The DJJ has submitted a Finance Letter use federal funds for a portion of these costs rather than General Fund. Specifically, the Finance Letter proposes to fund $440,000 in the current year and $190,000 in the budget year from federal funds rather than General Fund.

<u>Potential Questions</u>
What work products or deliverables are expected from these experts? Who are the subject matter experts? Given the recommendations on classification from the experts, is it still necessary to contract for subject matter experts regarding development of a classification system? The experts noted that they plan to deliver another report focusing on issues not related to Farrell. What is the timeline for that report? Will that report be funded from these funds?

2. Establish Administrative Staff to Oversee Program Development and Implementation. The BCP proposes to establish 4 Career Executive Administrator (CEA) positions and 12 administrative staff positions to oversee program development and implementation of the Farrell reforms. The CEA positions include a Female Offender Programs Administrator, a Classification Administrator, a High Risk Administrator, and a Low Risk Administrator. The 16 administrative positions include 4 Office Technicians to do clerical work, 2 Staff Services Managers to perform contract management duties, and 6 analysis positions to perform analytical functions related to contract management, budgeting, invoice processing, and contract monitoring. The DJJ indicates that these functions did not exist at DJJ prior to the reorganization and that there are no existing positions that can be redirected for these purposes. The budget proposes 4 positions and $531,000 in the current year, and 16 positions and $1.5 million ongoing for this purpose.

The experts indicated that they were unable to determine what resources existed in the youth authority prior to the reorganization, where those resources currently reside, and what resources still operate solely within the DJJ. Consequently they were unable to determine how many of the administrative resources that are needed for the effective operation of the of the DJJ can be obtained from CDCR or from within existing resources and how much must be created anew. The Safety and Welfare Planning Team also report that development and implementation staff is needed and that DJJ indicates that there are no positions within CDCR to redirect for these purposes.

Potential Questions
There were a number of administrative positions that were vacant at the old CYA, and at least three CEA-level positions that were transferred from CYA to do adult functions as a result of the reorganization. What resources existed in the youth authority prior to the reorganization, where are those resources currently, and what resources still operate solely within the DJJ? Is it possible that some resources could be redirected from CDCR to handle this work? As a consequence of the reorganization, several

3. Establishment of a Dedicated Transition Team. The BCP proposes to establish 6 positions (2 YA Administrators, 1 Major, 2 Parole Agent III's, and 1 Office Technician) on a three-year limited-term basis to oversee the development and implementation of immediate, short-term, and long-term strategies related to the reforms. DJJ indicates that this team will primarily work to assist in development of plans, contract with experts, identify action steps, and develop training and curriculum and materials.

Potential Questions
How is this workload different from the other administrative staff requested to oversee development of the plan or the experts to be hired? Why aren't the administrative staff overseeing program development the same people overseeing the transition? Why are these classifications requested? These are pretty high level classifications, of which there are not a lot at DJJ. Given the problems of succession planning at CDCR right now, if these positions are filled by people previously working in the field, how will the field workload be accomplished?

4. Implementation of Living Unit Size and Enhanced Program Delivery. The BCP proposes the phase-in implementation of 20 living units at a time. Beginning in Phase I, 20 units will be reduced to no more than 38 in dorm-style units, no more than 36 in single room units, and no more than 24 in Behavior Treatment Programs. Of the 20 units, 1 will be an Intake unit, 10 will be Enhanced Treatment Units (ETU) – formerly general population, and 9 will be Behavior Treatment Program (BTP) – formerly Special Management Programs. Each ETU will be staffed with the following 14 personnel years: .5 Psychologists, .5 Treatment Team Specialist, 2 Case Managers, 1 Supervising YCC off post, 6 YCCs, and 3 Teachers (funded in the Education Plan). Each BTP will have the following 19.5 personnel years: 1 Psychologist, .5 Treatment Team Specialist, 1 Casework Specialist, 1 Supervising YCC off post, 1 YCO, 11 YCCs plus 4 YCCs (in classrooms), and 4 Teachers (funded in the Education Plan). DJJ will also contract to have Aggression Replacement Therapy training materials and treatment services. For Phase I, the budget proposes 253.8 positions and $23.4 million for conversion of the 20 living units and $2.6 million to begin implementation of the Aggression Replacement Therapy for total costs of $26.1 million in 2006-07.

   Phase II would convert an additional 20 living units in 2007-08 with estimated costs of $12.8 million and 131 positions. Phase III would convert 20 more living units in 2008-09 with estimated costs of 121 positions and $12.2 million. Phase IV would convert the remaining

11 living units and open 10 units on a new facility in 2009-10 with estimated costs of 65 positions and $6.7 million.

The Expert report highlights that 36 to 38 youth in a housing unit is too large, noting that the latest standards published by the American Correctional Association call for housing units of no more than 16 beds. The expert report also recommends that BTP units of 24 are too large and note that some states run special program units with 10 or fewer residents. For the BTPs the experts recommend adding an additional part-time psychologist position and an additional YCC position.

<u>Potential Questions</u>
Has the DJJ considered focusing the implementation of the treatment in one facility?
What would be the impact of population reduction (e.g. from Romero's SB 1373) on this portion of Farrell implementation? How would DJJ respond to a population that is below projections? (Conversely, how would DJJ respond to a population that is above projections?)
If the DJJ proposal for 36/24-person living unit sizes is too big, what would be the ramifications of the Legislature (hypothetically speaking) specifying that the living unit sizes be restricted to 16/10?

5. Program Managers. The BCP proposes to provide 2 Program Managers at five facilities in 2006-07 and for a sixth facility in 2007-08. The Program manager would be responsible for the quality of treatment program delivery at the assigned facility. Under the BCP one Program manager would be responsible for core and high-risk program delivery and one Program Manager would be responsible for low risk and re-entry program delivery. The proposal includes 8.5 positions and $994,000 in 2006-07 growing to 12 positions and $1.3 million in 2007-08.

The Safety and Welfare planning team recommends that each institution will require at least three and sometime 4 Program Managers. The third Program Manager would be responsible for coordinating institution-wide programs including chaplaincy, records, the volunteer/positive incentives coordinator, victim services coordinator, work assignment coordinator, and the site manager for performance-based standards. The experts note that there will also be a need for a fourth Program Manager at sites where there are multiple specialized residential treatment programs for substance abuse and/or sexual behavior treatment.

<u>Potential Questions</u>
Isn't it the responsibility of the existing facility administrators to ensure delivery of treatment programs? Under this proposal, are we establishing in essence a separate management "silo" for program delivery? Does this reinforce the view within DJJ facilities as "security" vs. "treatment?"
Will DJJ be bringing forward a proposal to increase the number of Program Managers per the recommendation of the expert report?

8. Security for N.A. Chaderjian Control Rooms. The BCP proposes 8 YCO positions (11.2 personnel years including relief coverage) to provide control room coverage. Currently, in 4 of the 6 control rooms there is no YCO coverage during 2nd and 3rd watch, which requires a YCC to provide control room coverage rather than providing direct services, case work, and counseling to youthful offenders.

Potential Question
Is this really part of the Farrell Remedial Plan?

9. Implement Nationally-Recognized Performance-Based Standards. The BCP proposes that DJJ implement nationally recognized Performance-based Standards (PbS), a self-improvement and accountability system used in 27 states. The proposal requests to establish for 1 Staff Services Manager position and 10 analyst positions to track and monitor data at the institutions. Proposed costs are $138,000 in the current year, increasing to ongoing costs of $1 million in 2006-07.

Potential Question
What is the timeline for being able to implement performance standards?

10. Training for Trainers. This BCP proposes to implement training for trainers on: (1) Strategies for Juvenile Supervision (SJS), (2) Client Management Classification System, (3) Risk Needs Assessment, (4) Motivational Interviewing, (5) Individual Change and Accountability Plans (ICAP), and (6) Quality Assurance. The proposed costs for these functions include 2 positions and $302,000 in 2005-06, growing to 19 positions and $2.3 million in 2006-07.

Potential Questions
How does this fit in with the training needs assessment that was done in the current year?
How will the timeline work for getting the training program up and running and getting staff to the new units that have been fully trained on the new treatment delivery model?

11. Conflict Resolution Consultants and Conflict Resolution Teams. The BCP requests funding to establish Conflict Resolution Teams and the provide training for those teams. The proposal includes funding for consultants to (1) develop conflict resolution/ crisis intervention, (2) train staff, (3) assist the implementation of the teams. In addition, the proposal would establish 4 Conflict Resolution Teams (29 personnel years). The requested funding includes 1.2 positions and $773,000 in 2005-06, and 31.2 positions and $3.9 million in 2006-07.

Potential Question
How will the timeline work for getting the training program up and running and getting staff to the new units that have been fully trained on the new treatment delivery model?

12. On-the Job Normative Culture Training/Coaching. The BCP proposes to contract with subject matter experts to develop curriculum and training aids, and to train Youth Correctional Counselors in the establishment of a Normative Culture ay DJJ facilities. The budget proposes annual expenditures of $400,000 in 2006-07, 2007-08, and 2008-09.

Potential Question
How will the timeline work for getting the training program up and running and getting staff to the new units that have been fully trained on the new treatment delivery model?

18. Implementation of Clarified Acceptance/Rejection Criteria. The BCP proposes to establish a dedicated Intake and Court Services position at HQ to track cases that are rejected, identify trends in commitments, and monitor requests for court documents and corrections to court orders. The request provides for 1 analyst position and $88,000 ongoing.

Potential Questions
Who performs any part or all of this workload now?
Why can't this task be delegated to CDCR's proposed Research unit?
Is DJJ considering using this as a method of reducing the population at its facilities?

19. RFP for a Female Offenders Program Outside of DJJ facilities. The BCP proposes funding to (1) hire a consultant in female offenders to assist in writing a Request for Interest (RFI) and a Request for Proposals (RFP) to provide programming for female offenders in secure facilities outside of DJJ facilities ($795,000), and (2) pay for contract services for girls for six months in the budget year ($4.7 million). The request proposes expenditures of $5.5 million in the budget year and $8.6 million for contract services for girls in 2007-08.

Potential Questions
Is the contract portion for the RFI and RFP $795,000? How is this different from the female subject matter expert that is proposed to be hired, or the Female Offender Program Administrator position that is being requested? Is six months a realistic time frame to begin the contract for female offenders? What was the basis for the cost estimate of $200/day for female offenders ($73,000 average annual cost)? What are the total costs for housing female wards now? What is the average cost per female ward now? Does the proposal include any reduction from not housing girls in DJJ facilities? If not, why not? Why do you need someone to oversee programming when this is supposed to be contracted out? Isn't there a contracting entity within CDCR or DJJ whose responsibility it is to oversee contract performance and compliance? How is this contract out position different from the female subject matter expert (#1) or the female program administrator (#2)?

25. Establish a Compliance Team. The BCP proposes to establish a 6-person Compliance Team to ensure timely implementation of all the Farrell Remedial Plans. The team would be responsible to collect and analyze information to ensure implementation of the reforms. The request also includes a two-year limited-term position related to the consent decree implementation. Specifically, the budget proposes 1 Youth Authority Administrator position, 1 Captain, 1 Parole Agent III, 1 Treatment Team Supervisor position, 1 Office Technician to be funded through 2010-11, and 1 CEA II position on two-year basis for total funding of $664,000 in the budget year and $679,000 in 2007-08.

<u>Potential Questions</u>
Around 2000, the Legislature approved the establishment of a Compliance Review Team at CYA. The positions were approved to ensure that new policies and procedures on issues such as the revised suicide policy were being implemented. Why can't that Compliance Review Team be used to monitor implementation of Farrell policies and procedures? You used to have 8 positions in your compliance review teams: PA III, Captain, TTS, 2 SSM I, SSA, and an OT. What happened to those positions? Why can't they be used to perform this workload? Why are additional positions needed? What is the CEA position for? What position and how much money does DJJ currently have to monitor compliance with the Consent Decree?

Staff Recommendation. Staff recommends holding open this issue at this time.

Action

6. Health Care Remedial Plan

Budget Request. The department requests $7.5 million and 90 full-time positions to implement the Juvenile Health Care Remedial Plan. The remedial plan is one of the component requirements of the *Farrell v. Hickman* settlement agreement, which requires the department to improve the quality of care and treatment provided to wards in DJJ facilities. The budget requests funding for additional health care staff at headquarters and DJJ facilities, as well as for medical and dental equipment.

Staff Comments. The LAO has indicated that they are continuing the review of this plan. Staff recommends holding this issue open pending the completion of the LAO's review.

Action

Division of Juvenile Justice

Capital Outlay

Budget Request. Budget includes $2.6 million from the General Fund for the following capital outlay purposes:

CYA Capital Outlay Requests				
	Project	Location	Phase	General Fund
1	**Fire Protection Sprinkler Systems.** Proposal to install sprinkler systems in housing units and buildings. Total costs for this project are estimated at $13.6 million.	Statewide	WD	$1,005
2	**Central Kitchen Renovation of Floor and Blast Chillers**. Proposal to replace existing concrete floor and blast chiller system. Total costs are estimated at $1.2 million.	NCYCC	C	$1,252
	Total			$2,257

WD – Working Drawings
C – Construction

Staff Comments. In addition to these funds, within the CDCR budget, the budget proposes $1.250 million for Budget Package Development. Some of that money will be available for DJJ projects. In addition, the CDCR budget proposes $7.5 million for Minor Capital Outlay – some of which would also be eligible for use by DJJ.

April Finance Letter. The Administration has proposed an April Finance Letter to decrease $1,005,000 for working drawings for a statewide Juvenile Justice fire protection sprinkler system. The Administration notes that the preliminary plans for this project have been delayed because of a poorly defined scope and the overarching concern of how this project would fit into future funding requests for Juvenile Justice reform.

Staff Recommendation. Staff recommends approval of the Central Kitchen Renovation and approval of the Finance Letter deleting the Fire Protection Sprinkler System.

Action.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, May 4, 2006
9:30
Room 112

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

5225 Department of Corrections and Rehabilitation

Effective July 1, 2005, all the agencies that previously reported to the Youth and Adult Correctional Agency were consolidated in to the Department of Corrections and Rehabilitation (CDCR) pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero).

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to improve public safety through evidence-based crime prevention and recidivism reduction strategies. The CDCR is organized into twelve programs: Corrections and Rehabilitation Administration; Corrections Standards Authority; Juvenile Operations; Juvenile Education, Vocations, and Offender Programs; Juvenile Parole Operations; Juvenile Health Care Services; Adult Operations; Adult Parole Operations; Board of Parole Hearings; Community Partnerships; Adult Education, Vocations, and Offender Programs; and Correctional Healthcare Services.

Budget Proposal. The budget proposes total expenditures of $8.1 billion ($7.8 billion General Fund and $241 million other funds) and 60,966 positions for the CDCR. This represents an increase of $364 million ($383 million General Fund), or about 4.7 percent, and 2,357 positions above the revised 2005-06 budget. The Table, highlights the expenditures for the major programs within the CDCR for the current year and the budget year.

CDC – Summary of Program Expenditures

	Expenditures *(dollars in thousands)*			**Percent**
Program	**2005-06**	**2006-07**	**Change**	**Change**
Administration	$208,681	$243,649	$34,968	16.8%
Corrections Standard Authority	263,196	244,514	-18,682	-7.1%
Juvenile Operations	178,589	176,337	-2,252	-1.3%
Juvenile Education and Programs	138,523	179,404	40,881	29.5%
Juvenile Parole	40,468	38,734	-1,734	-4.3%
Juvenile Healthcare	56,135	62,119	5,984	10.7%
Adult Operations	4,713,759	4,868,653	154,894	3.3%
Adult Parole	717,983	693,504	-24,479	-3.4%
Board of Parole Hearings	85,416	89,493	4,077	4.8%
Community Partnerships	1,858	7,727	5,869	315.9%
Adult Education and Programs	236,608	271,376	34,768	14.7%
Adult Healthcare	1,052,898	1,182,755	129,857	12.3%
Total	**$7,694,114**	**$8,058,265**	**$364,151**	**4.7%**
Total Authorized Positions	**58,608.8**	**60,966.2**	**2,357.4**	**4.0%**

Historical Funding for Adult Corrections

The Table below highlights historical expenditures by program for CDC and for adult operations within the CDCR. CDCR Administration now includes some administrative expenditures for all of the programs within CDCR, including juvenile operations, and for the Corrections Standards Authority and the Board of Parole Hearings. Generally, the increases for adult operations have exceeded the total increases for the departments within CDCR. Expenditures for adult operations have grown from $5.3 million in 2002-03 to proposed expenditures of $7.3 billion in 2006-07.

CDC and Adult CDCR Summary of Program Expenditures

	***Expenditures** (dollars in thousands)*				
Program	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07****
Institution Program	$3,978,641	$4,274,143	$4,500.235		
Health Care Services Program	878,941	967,832	1,053,124		
Inmate Education Program		-	162,178		
Community Correctional Program	477,424	575,093	562,132		
Administration	136,208	130,676	142,926		
Distributed Administration	-136,208	-130,676	-142,926		
State Mandated Local Program	1	1	1	0	
CDCR Administration				208,681	243,649
Adult Operations				4,713,759	4,868,653
Parole Operations – Adult				717,983	693,504
Community Partnerships				1,858	7,727
Education, Vocation, & Offender Programs				236,608	271,376
Correctional Healthcare Services				1,052,898	1,182,755
Total	**$5,335,007**	**$5,817,069**	**$6,277,669**	**$6,937,787**	**$7,267,664**
Change		$482,026	$460,600	$660,118	$329,877
Percent		9.0%	7.9%	10.5%	4.8%

* Estimated
** Proposed

The next Table highlights the average cost per adult inmate, as calculated in the Governor's Budget display. The average cost has been steadily increasing for the last several years.

Table 5. Average Cost per Inmate at CDCR As Calculated in the Governor's Budget Display

1999-00	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**2004-05**	**2005-06***	**2006-07***
$22,737	$25,307	$27,705	$28,654	$31,288	$34,263	$34,150	$35,587

* Projected

CDCR 2006-07 Budget Adjustments proposed for Vote-Only ***(dollars in thousands)***			
	Issue	**Positions**	**Dollars**
A	**Adult Local Assistance.** Proposes an increase to reimburse locals for housing and non-routine medical costs of parolees who are detained for parole violations. In the current year, CDCR has proposed an increase of $85.1 million.		11,853
B	**Equipment Replacement.** Proposes $400,000 to replace aging and outdated equipment. In the budget year, funds would be used to replace outdated Live Scan equipment.		400
C	**Electromechanical Doors**. Proposes $3 million in 2006-07 and $7.3 million in 2007-08 to continue the electromechanical security door operating and locking system repair project that was initially approved in 2001-02. This funding will allow CDCR to continue to replace/repair existing cell door operating systems at various institutions.		3,000
D	**Inmate Restitution, Banking, and Canteen System.** Proposes $3.5 million from the Inmate Welfare Fund. These funds will be used for the purchase of hardware and software for the Inmate Restitution, Banking, and Canteen System. (Special Fund)		3,500
E	**Business Information System.** Proposes a reduction of 7.1 positions and 2.9 million for the Business Information System (BIS) in the budget year. This is previously approved multi-year project.	-7.1	-2,944
F	**Finance Letter – Business Information System Reappropriation.** The Budget Act of 2005 appropriated $10.1 million for the continued development of the BIS project. This proposal requests that $4.2 million be reappropriated for the budget year.		
G	**Price Increase**. State agencies were provided a 3.1 percent price increase.		55,969
H	**Kern Valley State Prison Base Staffing.** Proposes $4.6 million and 60 positions to provide additional base staffing for the Kern Valley State Prison.	60.7	4,579
I	**Special Repair Projects and Assessments.** Proposes a one-time augmentation of $11 million to address special repair projects. Baseline funding for special repairs is $11.5 million, while CDCR has reported that the unfunded special repair projects now exceed $194 million. CDCR indicates that the augmentation represents the extent of the budget year activity that can be undertaken by CDCR.		11,000

CDCR 2006-07 Budget Adjustments proposed for Vote-Only *(dollars in thousands)*			
	Issue	**Positions**	**Dollars**
J	**Finance Letter – Protective Vests.** This Finance Letter proposes $4.1 million in permanent funding to purchase new and protective vests (stab-resistant vests, ballistic vests, and/or combination vests. The proposed plan would allow CDCR to replace 20 percent of its vests annually (approximately 11,752), and to provide vests for new employees that have completed the Basic Officer Academy.		4,079
K	**Finance Letter – Parole LEADS Modernization Reappropriation.** This Finance Letter proposes to reappropriate $4.1 million in funding to support the development, implementation, and maintenance of the Parole Law Enforcement Automated Data System (LEADS).		
L	**Finance Letter - Madrid Compliance.** Proposes positions and funding to support CDC's efforts to comply with the requirements of the Madrid court case. The required changes to the employee discipline process include implementation of a centralized case investigation process and expansion of a vertical advocacy model. Additionally, recent court orders have mandated staffing increases in the Madrid Patient Information Management System and the enhanced mental health services program in Administrative Segregation Units at Pelican Bay State Prison.	69.8	6,560

Staff Recommendation. Staff recommends approval of the items on the vote-only list.

Action.

Discussion Issues

1. Public Community Correctional Facilities

The CDCR has the authority to contract with outside agencies to provide beds and programming for low-level offenders. Currently, CDCR contracts with 12 Community Correctional Facilities (CCFs) to provide 5,308 beds for low level offenders. Of the twelve CCFs, six are operated by a city or a county.

As with other state agencies, for the current year, the CDCR received a 2.6 percent price increase on its OE&E budget. The budget proposes a 3.1 percent increase for the budget year. The public CCFs have indicated that they have been historically underfunded and are seeking to have the following budget bill language and trailer bill language adopted to ensure that price increases that the CDCR receives are passed on to them.

Budget Item 5225-001-0001

> Provision X.
> Of the funds appropriated in this item, $55,969,000 is provided for the purpose of funding a 3.1 percent price increase on operating expenses and equipment for the department. Of that amount, the department shall provide a 3.1 percent increase in the contract amounts for public community correctional facilities.

Budget Trailer Language:

> If the annual Budget Act includes additional funding to the Department of Corrections and Rehabilitation for a price increase on operating expenses and equipment, the Department of Corrections shall provide public community correctional facilities a contract increase commensurate with the rate of increase the Department received in the Budget Act.

Staff Comments. The CDCR indicates that for the current year, they have provided the public CCFs with a 2.6 percent increase on their budgets except for certain lease costs which are fixed. The CDCR has also indicated that they intend to provide the public CCFs with a similar increase in the budget year based on the 3.1 percent price increase.

Staff Recommendation. Staff recommends approval of the budget bill language ensuring that the increase is provided in the budget year. In order to avoid setting precedent for other contracts, staff recommends not adopting the trailer bill language. The Subcommittee can revisit this issue in future years to ensure that good faith negotiations are taking place.

Action.

2. Provisional Language

There are several pieces of provisional language in Budget Item 5225-001-0001 that are no longer necessary that the Subcommittee may wish to delete.

- Provisions 1 and 2 state that funding for population increases to the institution population or the parole population that are in excess of the populations that actually materialize shall revert to the General Fund. Several years ago, additional language allowing the Director of Finance to approve increases in expenditures to offset shortfalls in other areas was inserted.

- Provision 6 provides that upon approval of the Department of Finance, the CDCR may transfer funding of up to 5 percent of the total appropriated between the budget bill schedules for Adult Institution Operations, Adult Parole Operations, and Adult Healthcare Services. Section 26 of the Budget Bill allows for such transfers with notification to the Joint Legislative Budget Committee.

- Provision 9 allows the Director of Finance to authorize expenditures in excess of the amount appropriated for purposes of compliance with the Valdivia Remedial Plan. This language was originally added due to uncertainties in implementation of Valdivia.

- Provision 10 allows the Director of Finance to authorize expenditures in the Division of Juvenile Justice in excess of the amount appropriated for purposes of funding attorney's fees in the Farrell consent decree. CDCR has submitted an April Finance Letter related to these costs.

In Budget Item 5225-101-0001, provision 3 is no longer needed.

- Provision 3 allows the Director of Finance to authorize expenditures for the transportation and detainment costs for certain parolees in excess of the amount appropriated.

Staff Recommendation. Staff recommends deleting the above provisional language from the budget bill.

Action.

3. Private Community Corrections Facility (CCF) Security Enhancements.

Budget Request. This proposal requests 4.6 Correctional Sergeant positions and $453,000 to provide three remote private-contracted CCF with a Correctional Sergeant position 16 hours a day, 365 days a year. A supervisory employee with peace officer powers could direct/deputize contract staff as necessary, thereby authorizing CCF staff to access the armory for lethal/less-than lethal weaponry.

Analyst's Recommendation. The LAO recommends deletion of the department's request for $453,000 in the budget year to provide additional custody staff at three CCFs. The department requests these funds because of concern that limited state correctional staffing at CCFs contributed to recent inmate disturbances. The LAO recommends rejection of this request because they note that inmate disturbances at CCFs are infrequent. In fact, the LAO indicates that there have only been a total of five inmate disturbances at the three facilities targeted for these funds in the last five years (though they note that one of those facilities was closed for two years).

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejecting this proposal.

Action

4. Office of Risk Management.

Budget Request. The budget proposes 2 positions in 2006-07, position authority for 19 positions in 2007-08, and an additional 19 positions in 2008-09. The proposal indicates that funds for the positions and the contract dollars ($300,000 annually through June 2009) will be identified in worker's compensation savings.

Staff Comments. The Table below summarizes the Workers' Compensation budget and expenditures since 2001-02. While expenditures are projected to increase in the current year, expenditures for 2004-05 were below expenditures for the two previous years, and expenditures continue to be below the budgeted level. It is not clear how these positions and contract dollars would be funded if the level of savings does not emerge.

CDC – Summary of Workers' Compensation Budget and Expenditures

	Expenditures *(dollars in thousands)*		
Fiscal Year	**Budget**	**Expenditures**	**Surplus/Deficit**
2001-02	91,693	153,971	(62,171)
2002-03	168,940	171,769	(2,829)
2003-04	189,290	178,506	10,784
2004-05	186,659	168,326	18,334
2005-06 (projected) [1/]	191,410	183,175	8,235
2006-07 (estimated)	195,606		

1/ Projected expenditures as of January, 2006 Monthly Budget Plans. Actual 2005-06 final expenditures may be different due to settlement of cases.

Staff Recommendation. It is not clear that enough savings will emerge to pay for the costs of all of the positions that are being requested. Staff recommends approval of the two positions in the budget year. Staff further recommends that the CDCR return with a new proposal justifying any additional positions in future years based on the work being performed in the budget year.

Action.

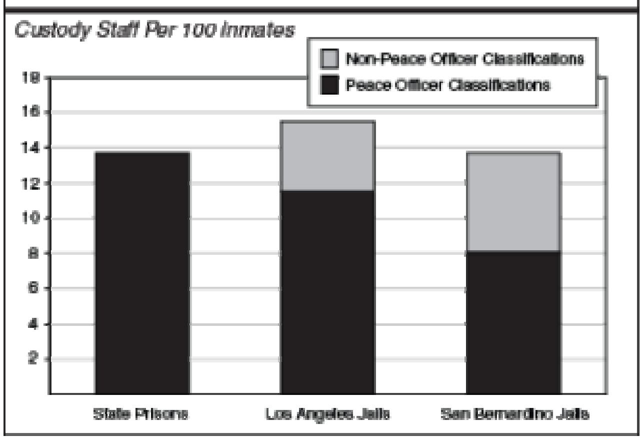
5. Use of Custody Assistants

In its Analysis of the Budget Bill, the LAO indicates that CDCR could improve prison operations and efficiency, as well as reduce state costs by utilizing a custody assistant classification similar to that used in some county jails.

Non-Peace Officer Custody Classification Used Widely in Some County Jails. The LAO reports that both Los Angeles and San Bernardino Counties use peace officers-deputy sheriffs-as the primary custody staff to supervise and manage the inmate population. However, the LAO notes that these counties also utilize non-peace officer staff to assist deputy sheriffs in the operation of the jails. Generally, these non-peace officer classifications-known as custody assistants in Los Angeles and sheriff's custody specialists in San Bernardino-have little direct contact with inmates, instead performing those custody-related duties that are not directly involved in the control of inmates. These duties include staffing employee entrances, reviewing videotape, working in control booths, and fingerprinting inmates. The Figure below from the *Analysis* shows the use of peace officer and non-peace officer custody staff in Los Angeles and San Bernardino jails compared to state prisons.

Figure 8

County Jails Use Non-Peace Officer Custody Classifications While State Prisons Do Not



Improved Prison Operations. One of the recurring operational problems faced by the department is correctional officer vacancies in the prisons. As of March 2006, CDCR reported that there were 2,250 correctional officer positions vacant (vacancy rate of 9.7 percent). The LAO notes that in some prisons, as many as 16 percent of correctional officer positions are unfilled. In order to supervise and manage the inmate population, correctional officer posts are generally required to be filled at all times. When vacancies occur, prisons frequently use overtime to keep the posts filled. According to department officials, the frequent use of overtime is not ideal for prison operations because officers working overtime are tired and more prone to mistakes, illness, and injuries.

Utilizing custody assistants in those institution assignments that do not require direct control of inmates would free up existing correctional officers to permanently fill vacancies. For example, the LAO points out that by reclassifying 25 positions at each of the 33 prisons, the department would free up enough correctional officers to fill 825 (or 47 percent) of its vacant positions. Filling these vacancies could result in improved prison operations to the extent that officers are more alert because they are working less overtime. The LAO also notes that addressing the vacancy problem is particularly important because correctional staff are due to receive an enhanced retirement benefit (3 percent at 50) under the Bargaining Unit 6 contract.

Improved Efficiency. The LAO indicates that correctional officers in CDCR are specifically trained to perform potentially dangerous work such as respond to emergencies and enforce department rules and regulations. Accordingly, using correctional officers in posts that do not require these skills on a daily basis does not allow the department to use its peace officers to their fullest capacity. The LAO notes that converting some posts to custody assistants would provide for greater efficiency by more closely matching the necessary level of custodial skills with the responsibilities of the posts.

State Operations Savings. In its Analysis, the LAO notes that conversion of some custody positions in prisons to custody assistants would result in state savings in a couple of ways. First, salaries and benefits for custody assistants would be less than correctional officers because custody assistants would have a lower level of duties and risk associated with working with inmates. In Los Angeles County, for example, the average annual salary for custody assistants is approximately $15,000 lower than the average annual salary for deputy sheriffs. The actual employee compensation savings that would be achieved by the state from converting correctional officer positions to custody assistants would depend on the difference in salaries and benefits, as well as the number of positions converted. For example, assuming that custody assistants earned a salary $15,000 lower than correctional officers, converting 25 positions to custody assistants in each of the 33 prisons-about 4 percent of all correctional officer positions-would save over $12 million annually in salary costs. This does not include additional savings in health care, workers' compensation, and retirement from lower salaries and benefits likely to be earned by custody assistants.

Second, to the extent that utilizing custody assistants would reduce correctional officer vacancies as described above, the department would experience a commensurate decline in overtime costs for correctional officers. Correctional officers earn overtime pay at 1.5 times their normal pay. In 2004-05, the department paid about $203 million in overtime costs for correctional officers. The reduction in correctional officer overtime might also contribute to fewer on-the-job injuries, sick leave, and workers' compensation costs. The department paid over $200 million for workers' compensation in 2004-05.

Analyst's Recommendation. In order to achieve the operational and fiscal benefits described above, the LAO recommends that the Legislature instruct CDCR to immediately begin the process required to develop a custody assistant classification for use by 2007-08. In order to provide legislative oversight and ensure that the department meets this requirement, the LAO further recommends that the Legislature adopt budget bill language requiring the department to provide a report on which posts will be reclassified to custody assistants. The following budget bill language is consistent with this recommendation:

> 5225-001-0001 Provision X. The Department of Corrections and Rehabilitation shall immediately begin the process of developing a non-peace officer, custody classification to be used in state prisons called custody assistants. No later than January 10, 2007, the department shall submit to the Chair and Vice Chair of the Joint Legislative Budget Committee, and the Committee on Budget in both the Assembly and Senate, a report identifying the number and type of posts in each of its correctional facilities that it plans to convert to custody assistant positions, as well as when the conversions will occur. *The report shall also include information on the proposed qualifications for the job and the specifications for the class.*

Staff Comments. CDCR has indicated they may not be able to have the requested information by January 2007. Staff recommends approval of budget bill language that also asks CDCR to report with additional information on the specifications for the new class that includes the qualifications and other selection standards.

Action

6. Basic Correctional Officer Academy Expansion.

Budget Request. The budget proposes $54.5 million and 211 positions to expand the number of cadets to be trained in the budget year and establishes Northern California Women's Facility as a temporary offsite academy. In the current year, the CDCR has proposed $25.4 million and 88.7 positions to begin expansion of the academy.

This augmentation allows the CDCR to enroll 3,700 cadets annually. As of March 2006, CDCR reported that it had 2,250 correctional officer vacancies and a vacancy rate of 9.7 percent. The vacancy rate for correctional officers has been increasing in the last several years, from 2 percent in 2002-03.

Analyst's Recommendation. The LAO recommends approving the increase on a one-time basis based on its recommendations to develop a custody assistant classification by 2007-08. The LAO believes that the future capacity of the BCOA would depend on a number of factors, including changes in the number of authorized positions due to population and policy changes, staff attrition due to retirement and other factors, as well as the department's potential use of custody assistants. The CDCR should identify its projected correctional officer cadet need for 2007-08 based on these factors in the Governor's 2007-08 proposed budget.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

7. GPS Monitoring Expansion.

Budget Request. The budget proposes $5.1 million to add 500 Global Positioning System (GPS) devices to track and monitor high risk parolees. This is part of a four-year plan to add 2,000 GPS devices, bringing the total number of GPS units to 2,500 by 2009-10. Total costs for the program would increase to $18.6 million in 2009-10.

Analyst's Recommendation. The LAO recommends the deletion of the department's request to expand its use of GPS for tracking sex offenders and other parolees. By 2009-10, this proposal would provide funding for an additional 2,000 GPS units and other equipment, as well as increased parole agent staffing. The department began implementing GPS supervision for the first time in the current year for 500 sex offender parolees. The LAO notes that because this is a new technology for the department and because there is little research evaluation on GPS nationwide, the department is having its current GPS program evaluated by University of California researchers to determine its effectiveness. The LAO believes it is appropriate to wait until the pilot project and its evaluation have been completed before committing to significant program expansions. According to CDCR, the evaluation is expected to be completed in August 2007.

Staff recommendation. Staff recommends approval of the proposal.

Action.

8. Gang Management.

Budget Request. The budget proposes $200,000 in contract funding to facilitate the formation of a Gang Management Workgroup to include recommendations from consultants identified as nationally recognized gang experts to address comprehensive plans for inmate housing, classification, discipline, and gang management.

Analyst's Recommendation. The LAO recommends rejection of CDCR's request for $200,000 to enter into a contract related to gang management. While the LAO agrees with the department's assessment that it could benefit from improved gang management strategies, the LAO is concerned that the department has not provided sufficient detail regarding the nature of the proposed contract. In its *Analysis*, the LAO indicates that it is unclear whether the purpose of these funds would be to research best practices in other states, develop new punishments for gang members, implement rehabilitation programs, create staff training tools, or some combination of the above. Without a clear plan as to the intent of the contract, it remains unclear what specific benefit will be achieved with the requested funds

Staff Recommendation. Given the problems of gangs in the prisons, staff recommends approval of the funding, but also that the Legislature direct CDCR to provide the Legislature with a report that includes the recommendations from the proposed Gang Management Workgroup and the recommendations from the experts that it will be contracting with.

Action.

9. Electronic In-Home Detention Program.

Budget Request. Proposes $1.2 million and 12 positions to fund the Electronic In-Home Detention (EID) program (passive monitoring system). The proposal includes funding to implement, distribute, and monitor 500 EID units statewide to provide an additional supervision tool.

Staff Recommendation. The Subcommittee may wish to get an update on the implementation of the EID program, whether it is being used in conjunction with other parole programs, and whether the program is considered responsive to issues raised by the Valdivia court regarding intermediate sanctions.

Action.

10. Substance Abuse Program (SAP)

Through the Office of Substance Abuse Programs (OSAP), CDCR has 9,001 in-prison substance abuse treatment slots. In addition to the in-prison treatment slots, the Legislature provides funding in the budget for residential community aftercare for 50 percent of the in-prison treatment program graduates.

In recent years, the SAP programs have expended less than the budgeted amount. In 2003-04, the budget for OSAP was $122.6 million and expenditures for the program were $100.8 million. The remaining $21.8 million was used to offset other shortfalls in the department. For 2004-05, the program did not expend $13.2 million, which was used to offset other shortfalls in the CDCR budget. For the current year, the CDCR is proposing that savings of $7.8 million from the program be used to offset other shortfalls.

Allotment and Expenditures for the OSAP Program
(dollars in millions)

Year	Allotment	Expenditures	Surplus/Deficit
2003-04	$122.6	$100.8	$21.8
2004-05	129.5	116.3	13.2
2005-06	101.6	93.8	7.8

Informational Issue

11. Recidivism Reduction Strategies.
Proposes funding to expand various inmate and parole programs designed to reduce re-offending and recommitment to state prison. The proposal (including $30 million approved in the 2005 Budget Act) includes $21.1 million for enhancements to inmate education and vocational education programs; $7.7 million for community partnerships; $7.8 million for parole services expansions, $9.9 million for institution based rehabilitative and treatment programs; and $6.2 million to research the effectiveness of correctional programs. The 2005 Budget Act included $7.5 million for the current year, growing to $30 million in 2006-07.

Inmate Education. In the current and budget years, the single largest component of the department's request is for expansion of inmate education programs. Among other things, the department would assess inmate education needs, increase the availability of academic and vocational programming in prisons, and provide new books and educational equipment. The department proposes to increase funding for inmate education by $2.6 million in the current year, growing to $26.1 million by 2008-09. The latter amount represents a 16 percent increase over estimated expenditures for inmate education in 2004-05. The department's inmate education funding request includes about 20 different components. The major components of this request below, which account for 40 percent of the new proposed educational funds in the budget year are summarized below.

Needs Assessment. The department's proposal includes $675,000 in the current year, growing to $5.4 million in 2008-09 to develop a needs assessment tool, as well as provide the staffing necessary to administer the test and process the results. According to the department, prisons do not have a systematic way to assess inmates' treatment needs, including diverse factors such as education, substance abuse, mental illness, anger, and parenting.

Specialized Education for Some Inmates. The budget includes a total of $454,000 in the current year, growing to $2.4 million in 2008-09 to develop and provide specialized education programs to certain inmates. This includes funding to develop a specialized curriculum for female inmates. In addition, the department proposes to implement education programs in housing units for inmates with serious mental illness, as well as those who have disciplinary problems.

Expanded Vocational Programs. Approximately $2.8 million will be used to establish 19 new vocational programs in prisons throughout the state beginning in the budget year. The department has not yet identified what types of vocational programs will be implemented or in which prisons.

Alternative Education Delivery Models (AEDM). The department proposes $674,000 in the current year, growing to $7.0 million in 2008-09 to implement AEDM. According to the department, AEDM consists of providing alternative approaches to academic education in prisons. For example, the department would expand on its limited use of distance learning, independent study, and half-day education programs.

Rehabilitative Programs. Under the department's request, institutions would provide more rehabilitative programming through the development of services to increase inmate visiting, reduce serious inmate misconducts, as well as provide comprehensive correctional services specific to female inmates. The department proposes $100,000 in the current year, growing to $4.3 million in 2008-09 for six rehabilitative programs. We describe four of the components of this request below.

Female Offender Housing and Rehabilitation. The department proposes $100,000 in the current year, growing to $2.3 million in 2008-09 to implement various programs and conduct research specific to female inmates. This would include providing substance abuse programming for women at a community correctional facility, implementing a family reunification program, and contracting with experts in the field to develop policies, classification, and program services designed for women offenders.

Estelle Transitional Program. This program would be designed to prepare inmates in Security Housing Units and the Psychiatric Services Unit-for inmates with histories of serious in-prison disciplinary problems-for transition back to general population housing units. This program is estimated to cost $360,000 for equipment costs in the budget year and $2.2 million in 2007-08 to operate the program.

Additional Visiting Day Pilot. Beginning in the budget year, the department requests $1.6 million to establish an additional day of visiting at three institutions.

Right Prisons, Right Missions. The department requests $745,000 in the budget year, decreasing to $395,000 in subsequent years to develop and implement its "Right Prisons, Right Missions" (RPRM) strategy. The RPRM is an effort recently begun by CDCR to assess which prisons are best suited for different types of inmates based on factors such as prison design and age, staffing issues, and inmate demographics and rehabilitative needs. For example, CDCR is attempting to determine which prisons are most able to accommodate the department's increasing mental health population in light of difficulties recruiting mental health staff in some areas, as well as the ability to provide treatment space. This request would provide one-time funding of $350,000 in the budget year to hire subject matter experts to develop an implementation plan for RPRM. In addition, the department requests ongoing funding of $395,000 beginning in the budget year to form compliance teams to ensure the successful implementation of RPRM. Implementation of this strategy may require significant changes to the missions and programs at individual prisons, as well as the transfer of many inmates within the state.

Treatment Programs. The department's proposal includes $1 million in the current year, growing to $3.8 million in 2008-09 for treatment programs. Most of this funding would be used to implement a new substance abuse program at Kern Valley State Prison. The remaining $100,000 in the current and budget years would be to contract with outside experts to research and develop in-prison treatment programs for mentally ill, dually diagnosed (with both mental health and substance abuse issues), and sex offender inmates.

Parole Services. By 2008-09, about half of the funding requested in this proposal will be for parole services. This funding would be used to develop new, and expand existing, community-based housing and services for parolees such as homeless parolees and sex offenders. The department is proposing $1.5 million in the current year, growing to $48.1 million in 2008-09. The three primary components of this proposal are described below.

Residential Multi Service Centers (RMSC). Currently, the department uses RMSCs to provide housing, as well as a variety of other services, for parolees who would otherwise be homeless. The department is currently budgeted for 775 RMSC beds. This proposal would add 1,250 new beds by 2008-09 at an annual cost of $22.3 million when fully implemented.

Community Based Coalition. The department proposes $1.5 million in the current year, growing to $22.7 million in 2008-09 to partner with counties to provide various services to parolees to assist them in the successful reintegration into communities. According to the department, this funding would be used to contract with counties to provide services such as housing (600 beds), vocational development, and job placement.

Sex Offender Housing. Currently, the department does not provide housing specifically for sex offender parolees. Under this proposal, the department would spend $2.2 million annually beginning in the budget year to contract for housing for 80 sex offender parolees.

Division of Community Partnerships. The department's budget includes $1.9 million in the current year, growing to $7.7 million in subsequent years to establish the CDCR Division of Community Partnerships. This proposal would establish nine positions to develop collaborations with counties and community groups, as well as administer a few million dollars in grants. According to the department, the focus of this office would be to promote reentry services for inmates as they reenter communities.

Research and Implementation. In order to accomplish its goal to develop evidence-based practices and programs, the department proposes $195,000 in the current year, growing to $4.7 million in 2008-09 for research and evaluation. This funding would increase CDCR research staff, fund research contracts with outside researchers, and update departmental information technology (IT) systems to incorporate program data.

Training and Development. The department requests $500,000 in the budget year and $1.5 million in 2007-08 for training. The department's request does not specify how these funds will be utilized.

Support Services. The department proposes $200,000 in the current year, growing to $600,000 in 2008-09 for seven positions. According to the department, these legal, IT, accounting, and management staff are the minimum necessary to provide sufficient support to ensure the success of the various program initiatives in this proposal.

Analysts Concerns. The LAO believes that the department's request has merit in that it attempts to address major programmatic deficiencies that contribute to recidivism. For example, several of the proposals attempt to address common problems among offenders-low literacy and job skills, substance abuse, and housing instability upon return to the community. In addition, the needs assessment and evaluation components of this request are meant to address the department's limited ability to determine the programmatic needs of inmates and assess CDCR's ability to address those needs while incarcerated. Despite these positive aspects of the proposal, the LAO raised significant concerns with this request related to the following:

- Limited Detail Provided.
- Department Does Not Identify State Benefits.
- Too Much, Too Quickly.

In addition, the LAO outlined a number of operation issues that could make the limit the effectiveness of the proposals.

- Lockdowns.
- Staff Vacancies.
- Current Funding Structure.
- Fewer Incentives to Participate in Education Programs than Other Programs.

Analyst's Recommendations.
Inmate Education (-$15,370,000). The LAO believes that in general inmate education programs can significantly reduce the likelihood that inmates return to prison. However, they are concerned that several of the department's funding requests related to education programs lack detail. Specifically, the department's proposals to expand vocational and life skills education, utilize alternative delivery models, and pilot a Behavior Modification Unit all lack important implementation details, including curriculum, number of inmate participants, and types of inmates targeted for the programs. Moreover, the LAO notes that the CDCR has not provided the research-based evidence for the above specific program approaches, as well as its peer education proposal. Finally, the department's proposal lacks detail on how it calculated its funding needs for standardized textbooks, library staffing, and program accountability and training.

Rehabilitative Programs (-$2,169,000). The LAO indicates that several components of this proposal lack the necessary detail to justify the requested funds. The department does not provide much information on what the Offender Mentoring Program would do or achieve, particularly given the limited scope envisioned-with only 100 inmate participants each year. The Estelle Transitional Program would be designed to promote successful reentry for inmates with disciplinary problems. While the LAO has recommended the use of reentry programs in the past, the department has not provided evidence-based research demonstrating that this particular model has been used successfully elsewhere. Further, the LAO does not believe that the funds for the RPRM compliance teams are warranted in the budget year. The department is requesting funds in the budget year to both develop and implement its plan by using compliance teams. The LAO suggests that the compliance teams, if necessary, would be better utilized in 2007-08, after that plan is developed. The LAO also recommends against funds to develop policies and practices for the Behavior Modification Unit. The CDCR has existing staff in headquarters and institutions who are responsible for developing policies and procedures for the department and that the workload can be done by existing staff. Finally, the LAO recommends a reduction in the Day Visiting Program of $1.3 million due to an overestimate of the number of positions that will be necessary to operate the extra day of visiting in the three prisons.

Treatment (-$50,000). The LAO recommends rejecting the department's requests for funds for two $25,000 contracts with outside researchers related to behavior management and substance abuse programs for mentally ill patients. Given the small size of these contracts and their limited scope, the LAO believes such research can be conducted by the department's existing mental health staff in conjunction with the newly established staff in the department's research office.

Parole (-$2,500,000). The LAO recommends limiting the department's funding for the Community Based Coalition to current-year funding of $1.5 million, rather than the proposed increase to $4 million. The department proposes this new program as a pilot program, yet proposes to grow the program in each of the next three years. The LAO believes it would be more appropriate to wait until the department has assessed the impact of the current-year program, particularly given the limited amount of information provided by the department regarding the specific nature of the state and local partnership, as well as what specific services will be provided with state funds.

Division of Community Partnerships (-$5,100,000). In recognition of the importance of collaborative efforts between state and local governments in the area of criminal justice, the LAO recommends approval of most of the limited staff requested for the Division of Community Partnerships. However, the LAO raised concerns that the department has not provided significant detail as to how it intends to administer the proposed grants to local governments and community groups. In addition, most of the department's staff in the division will not begin until the budget year, raising a concern that the office will not be in a position to review grant requests and administer all grant funding at the start of the budget year as the request assumes. Therefore, the LAO recommends reducing the request for community partnerships by $5 million.

Research and Implementation (-$2,149,000). Part of the department's request for research funding is $2.1 million and 13.5 positions for project managers and to incorporate program data into existing information systems used to create population projections. The LAO is concerned that the department's request does not include any information on how it calculated its need for this level of funding and staffing, and also notes that it is unclear how this portion of the request benefits rehabilitation programs.

Training and Development (-$500,000). The LAO indicates that the department's request includes little information on how it plans to utilize these funds. The department states that this component of the proposal would address workforce and training needs, but does not specify what those needs are or how the funds provided will address those needs.

Support Services (-$595,000). The department requests funds for seven administrative staff to help support expanded rehabilitation programs. While additional support services may be warranted, the LAO indicates that the department has not provided a workload analysis to justify this level of staffing.

The Table below summarized the LAO recommendations.

California Department of Corrections and Rehabilitation
Recidivism Reduction Proposal
LAO Recommendations—2006-07

(In Millions)

Issues	Governor's Request	LAO Recommended Funding Level	Savings
Inmate education	$21.1	$5.8	$15.4
Rehabilitative programs	6.0	3.9	2.2
Treatment	3.9	3.8	0.1
Parole programs	7.8	5.3	2.5
Community partnerships	7.7	2.6	5.1
Research and implementation	5.1	3.0	2.1
Training and development	0.5	—	0.5
Support services	0.6	—	0.6
Totals	**$52.8**	**$24.4**	**$28.4**

In addition, given our concerns regarding the ability of the department to implement so many program initiatives at one time, the LAO recommends that the Legislature only approve the funding request for the budget year and not the additional increases assumed for 2007-08 and 2008-09. The detail for the next round of program expansions should be identified with the release of the Governor's 2007-08 budget plan. At that time, CDCR could present the status of program expansions initiated in the current and budget years, allowing the Legislature to determine which further program expansions are warranted.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action.

12. Adult Corrections Population

The table below shows the historical adult institution and parole populations since 1999 and the projected population increases through 2011. In the period between 1999 and 2005, the population remained stable, increasing from 162,064 to 164,179. The population has begun to increase steadily since that time, with the population projected to increase to 181,474 by 2011.

Table 17. Historical & Projected Adult Institution and Parole Populations (as of June 30th of each year)

Year	Institution Population	Change	Percent Change	Parole Population	Change	Percent Change
1999	162,064			112,494		
2000	162,000	(64)	0.0%	119,298	6,804	6.0%
2001	161,497	(503)	-0.3%	119,636	338	0.3%
2002	157,979	(3,518)	-2.2%	120,336	700	0.6%
2003	160,931	2,952	1.9%	116,173	(4,163)	-3.5%
2004	163,500	2,569	1.6%	112,685	(3,488)	-3.0%
2005	164,179	679	0.4%	115,371	2,686	2.4%
2006*	168,583	4,404	2.7%	115,920	549	0.5%
2007*	172,019	3,436	2.0%	116,847	927	0.8%
2008*	174,994	2,975	1.7%	117,125	278	0.2%
2009*	177,747	2,753	1.6%	117,447	322	0.3%
2010*	179,789	2,042	1.1%	118,772	1,325	1.1%
2011*	181,474	1,685	0.9%	119,967	1,195	1.0%

* Projected in Fall 2005 projections

Fiscal Implication in January Budget. As a result of the projected increase in the adult inmate and parole populations, CDCR is requesting additional funds of about $89 million in the current year ($59 million in prison and parole costs and $30 million in payments to counties for jail beds), growing to $149 million in the budget year ($138 million for prisons and parole and $12 million for county jail beds).

Analyst's Recommendation. The LAO withholds recommendation on the 2006-07 budget request for caseload funding pending receipt of the May Revision because recent data indicate that the population is trending higher than the department's projections.

Staff Recommendation. Staff recommends holding open this issue pending the May Revise population adjustment proposal.

Action

13. Population Management.

Housing the Projected Growth in Inmate Population. The Governor's budget proposes an inmate housing plan to accommodate the additional 7,840 inmates that CDCR expects to receive by the end of the budget year. The plan has the following major elements:

Full Activation of Kern Valley State Prison. The CDCR will fully activate a new prison in Delano County that opened in spring 2005. By spring 2007, the prison will be able to hold an additional 4,600 inmates compared to the beginning of the current year.

Community Correctional Facilities. The CDCR would occupy about 5,300 community correctional facility beds, an increase of almost 600 beds from the end of 2004-05. In addition, the Governor's proposed budget includes budget bill language allowing the department to contract for up to 8,500 additional beds from this source beginning in 2007-08.

Overcrowding of Existing Prison Space. The housing plan assumes that, by the end of the budget year, an additional 2,600 inmates would be placed in gymnasiums, dayrooms, and dorms in CDCR prisons that are intended to be temporary housing.

Information Issue

14. Authority to Contract for Adult Beds.

Budget Request. The budget proposes budget bill language to authorize CDCR to contract with providers to build contract bed capacity of up to 8,500 beds, including 4,000 male beds and 4,500 female beds for the 2007-08 fiscal year.

Staff Comments. The Subcommittee may wish to consider this proposal in the context of other population management and plans of the department.

Action.

15. Finance Letter In-Cell Integration.

Budget Request. The budget proposes $5.9 million and 30 positions in the budget year and $1.6 million of ongoing funding to fund staff, physical plant, and training and equipment expenses necessary for statewide implementation of in-cell integration as required in the settlement agreement foe the Garrison *Johnson v. State* lawsuit. The proposal includes providing modular units so that interviews with incoming offenders to determine eligibility for in-cell racial integration can be done in a private area and positions to input data regarding an offender's integration eligibility. The plan for Phase I is to finalize the plan and the information technology modifications, develop training and new policies. Phase II will begin in July 2007 with partial in-cell integration, and Phase III to begin full in-cell integration would begin in July 2008.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action

16. Finance Letter – Enterprise Information Services Division Corrective Action Plan.

Budget Request. The budget proposes 5 positions and $2.2 million to address deficiencies described by the Department Of Finance in their assessment report of CDCR's IT activities.

Staff Recommendation. Staff recommends that the department update the Subcommittee on the DOF assessment report and the proposed corrective action plan.

Action

17. Inmate Dental Services.

Budget Request. The administration presents a three-year funding proposal in response to the lawsuit. (The administration indicates that it will request additional resources in 2009-10 to implement the policies and procedures at institutions for the final three years of the six-year rollout period.) The amount requested for the budget year is $21.5 million and 326 positions. The request consists of 285 prison positions, mostly dentists and dental assistants, to be phased in throughout 2006-07 at a cost of $13.1 million. The budget also proposes $3.5 million for 41 headquarters positions to provide oversight of the dental rollout. In addition, the budget requests $1.2 million in one-time contract funding to determine which prison dental clinics will need to be expanded in order to comply with the settlement agreement, as well as $3.7 million in one-time funding to acquire dental equipment such as dental chairs and x-ray equipment.

The ongoing annual cost of the three-year funding proposal is estimated to be $42 million (an increase of 95 percent from current costs) with an additional commitment of 597 staff for this activity (an increase of 144 percent from current staffing). The current inmate dental program consists of $44 million and about 415 positions.

Background. In December 2005, *Perez v. Hickman* was filed in federal court contending that CDCR was in violation of the Eighth amendment of the United States Constitution by providing inadequate dental care to prison inmates. Some specific examples of key issues raised in the *Perez* class-action lawsuit include: (1) inadequate numbers of dentists and dental assistants, (2) lack of proper training and supervision of staff, (3) insufficient dental equipment such as examination chairs and x-ray machines, (4) poorly organized inmate dental records, and (5) unreasonably long delays for inmates to receive dental treatment, including prisoners with dental emergencies.

The lawsuit was filed concurrently with a settlement agreement reached between the state and the plaintiffs. The agreement committed the state to implement significant changes in the delivery of dental care services to inmates. The agreement requires the department to implement a number of newly developed policies and procedures at all 33 state prisons over a six-year period, beginning with 14 prisons in July 2006. The agreement focuses on improving inmate access to dental care, as well as the quality of dental care services provided in the prisons. For example, the policies and procedures require the department to treat inmates within specified time frames according to the severity of the dental problem, and set standards of care that prison dental staff must provide.

Staffing Study Required. The settlement agreement also directs CDCR to complete a study of the types and amount of additional staff it will require to implement the policies and procedures according to the schedule in the implementation plan. This study must be completed by June 1, 2006. The department is then required to hire personnel based on the results of the staffing study.

Concerns Raised by the LAO. The LAO indicates that the request is consistent with the settlement agreement. The proposal would add an average of four dentists and ten dental assistants to each of the rollout institutions over the course of the budget year. While the LAO believes that this level of staff seems reasonable in light of the potential workload associated with the settlement agreement, this staffing level is not based on a staffing study as required by the court. According to the department, this is because there was not enough time to conduct the study prior to submittal of the budget request. The CDCR has indicated that a contractor has been hired to conduct the study, which is on track to be completed by June 2006.

Analyst's Recommendation. The LAO notes that because the staffing study is not due to be completed until June 2006, it will probably be difficult for the Legislature to take its findings into consideration as part of the budget process. Consequently, the LAO recommends the adoption of budget bill language that would allow the Legislature to adjust the funding and position authority as needed based on (1) the findings of the staffing study and (2) the department's progress in filling these positions. The LAO notes that the department currently has a 13 percent vacancy rate for dentists and a 15percent vacancy rate for dental assistants. As such the LAO questions whether the department can fill the over 200 dentist and dental assistant positions requested in the budget year. To the extent the department is unable to fill positions in 2006-07, the LAO believes that any unspent funds should revert to the General Fund.

In order to accomplish this, the LAO recommends the Legislature appropriate $21.5 million in a separate item of the *2006-07 Budget Bill* and adopt budget bill language that provides a total of $14.2 million to fund the establishment of 124 positions ($9.3 million) on July 1, 2006, as well as provide one-time equipment and contract funding ($4.9 million). The language would provide for authorization of the remaining funding and positions after the staffing study is completed and the Department of Finance certifies that the staffing and funding provided in the budget act are consistent with the results of the staffing study. The following budget bill language consistent with these recommendations.

> 1. Of the funds appropriated in this item, $14,080,388 is to fund 124 dental staff positions, as well as equipment and contract costs, with a July 1, 2006 start date as part of the *Perez* settlement agreement.
> 2. The remaining $7,406,612 to fund 202 positions may not be expended by the California Department of Corrections and Rehabilitation until the Department of Finance provides to the Joint Legislative Budget Committee a copy of the staffing study and a letter certifying that staffing levels are consistent with the findings of the staffing study. The Joint Legislative Budget Committee shall have 60 days to review the staffing study and letter prior to authorizing funding and position authority.
> 3. Unspent funds in this item shall revert to the General Fund at the end of 2006-07.

Supplemental Report Language. Given the potential magnitude of the state's investment in the prison dental care system in the *Perez* court case, the LAO recommends that the Legislature require CDCR to report periodically on a number of key indicators of its progress in implementing the policies and procedures. This would allow the Legislature to assess the extent to which the investment of public resources is moving the state toward full compliance with the court settlement agreement.
Accordingly, the LAO recommends the Legislature adopt supplemental report language that directs CDCR to annually provide the Legislature information on the inmate dental care delivery system, including dental staff vacancy rates and compliance with the time frames required by the settlement, so that the Legislature may track the department's progress in improving the inmate dental program during the rollout period. The following supplemental report language is consistent with this recommendation.

> The California Department of Corrections and Rehabilitation shall provide on December 1, 2006, December 1, 2007, and December 1, 2008 a report to the chairs of the fiscal committees in both houses and Joint Legislative Budget Committee on the status of the implementation of the *Perez* settlement agreement <u>as of June 30 of the prior fiscal year</u>. The report to the Legislature shall identify specific outcomes relating to the settlement agreement and its goal of providing increased access and higher quality dental care services. The report shall include information on dental staff vacancies rates, as well as the number and percentage of applicable inmates at each rollout prison that were (1) provided with an initial dental examination within 90 days of arrival at an institution; (2) provided with subsequent examinations annually or biennially; and (3) seen within appropriate time frames according to their designated treatment priority level.

Staff Recommendation. Staff recommends adoption of the LAO proposed budget bill language and supplemental report language.

Action

18. CDCR Capital Outlay

CDCR Capital Outlay Projects Proposed for Vote-Only				
	Project	Amount	Finance Letter Amount	Total Requested
General Fund Projects				
1	61.01.001 Statewide: Budget Packages and Advance Planning	1,250,000		1,250,000
2	61.01.202-Statewide: Small Management Exercise Yards (MCSP, SOL, WSP, ~~NKSP~~, RJD)--Construction	3,020,000	(300,000)	2,720,000
3	61.07.029-Folsom State Prison: Convert Officer and Guards Building to Office Space--Preliminary plans	410,000		410,000
4	61.08.049-California Institution for Men: Solid Cell Fronts -- Working Drawings	645,000		645,000
5	61.09.038-California Medical Facility: Solid Cell Fronts--Preliminary plans	387,000		387,000
6	61.09.040-California Medical Facility: Intermediate Care Facility -- Working drawings and construction	5,455,000		5,455,000
7	61.10.036-California Men's Colony: High Mast Lighting -- Construction	1,045,000		1,045,000
8	61.10.049-California Men's Colony: Potable Water Distribution System Upgrade--Construction	32,573,000	990,000	33,563,000
9	61.16.023-Sierra Conservation Center: Filtration/Sedimentation Structure - Preliminary plans	151,000		151,000
10	61.33.003-High Desert State Prison: Arsenic Removal from Potable Water Supply--Construction	6,930,000	1,484,000	8,414,000
11	~~61.34.004-Ironwood State Prison: Heating, Ventilation, and Air Conditioning System -- Preliminary plans~~	1,690,000	(1,690,000)	-
12	61.35.010-Salinas Valley State Prison: Intermediate Care Facility -- Working drawings and construction	8,491,000		8,491,000
13	61.39.003-Kern Valley State Prison: Arsenic Removal Water Treatment System -- Construction		2,477,000	2,477,000
14	61.06.029-Deuel Vocational Institution: Groundwater Treatment and Non-Potable Water Distribution System--Construction	1,500,000	975,000	2,475,000
15	61.06.029 Deuel Vocational institution, Tracy: New Electrical Power Substation -- Preliminary plans, working drawings, and construction	24,333,000	2,327,000	26,660,000
16	61.30.004-Centinela State Prison: Wastewater Treatment Plant Upgrades--Working drawings	410,000	138,000	548,000
Special Fund Project				
17	61.22.004-Chuckawalla Valley State Prison: Heating, Ventilation, and Air Conditioning System—Construction (Lease Revenue Funds)		38,000,000	38,000,000

Reappropriations	
19	60.26.145-Northern California Youth Correctional Facility: Blast Chiller - Preliminary plans and working drawings. Would reappropriate $160,000 for this project. The preliminary plans will not be completed for approval of the Public Works Board (PWB) until July 2006.
20	61.03.023-California Correctional Center, Susanville: Wastewater Treatment Plant Modifications—Acquisition. Would reappropriate $1.4 million for the land acquisition for this project. The delays in this project were encountered in the CEQA process. The acquisition is estimated to be presented to the PWB for approval in September 2006.
21	61.15.027-California Rehabilitation Center, Norco: Potable Water System Improvements – Construction. Would reappropriate $1.7 million for the construction phase of this project. The working drawing phase will require additional negotiations with the City of Norco and are scheduled for completion in December 2006.
22	61.35.007-Salinas Valley State Prison, Soledad: 64 Bed Mental Health Facility -- Preliminary plans, working drawings, and construction. Would reappropriate $24.5 million for the working drawings and construction phases of the project. Preliminary plans are scheduled for completion in June 2006. The reappropriation is requested in case there are any delays which delay PWB approval at the June meeting.
23	61.47.002-California State Prison-Sacramento, Represa: Psychiatric Services Unit/Enhanced Outpatient Care, Phase II – Construction. Would reappropriate $6.7 million for the construction phase of this project. Construction delays with the roof have pushed the estimated completion of construction to July 2006.
24	61.04.040-CCI, Tehachapi: Wastewater Treatment Plant Renovation – Working Drawings and Construction. Would reappropriate $19.7 million for working drawings and construction. An agreement with the local water district has not been executed. The project is expected to go to bid in September 2006.
Reversions	
25	Item 5225-301-0001, Budget Act of 2005 (Ch. 38/39, Stats 2005): (1) 60.01.130-Statewide: Install Fire Protection Sprinkler System -- Preliminary plans. Would revert $646,000 for this deleted project.
26	Item 5225-301-0001, Budget Act of 2005 (Ch. 38/39, Stats 2005): (22) 61.39.003-Kern Valley State Prison, Kern: Arsenic Removal Water Treatment System – Construction. Would revert $2.4 million. Construction funds have been re-requested.
27	Item 5225-301-0660, Budget Act of 2005 (Ch. 38/39, Stats 2005): (1) 61.22.004-Chuckawalla Valley State Prison, Blythe: Heating, Ventilation, and Air Conditioning System – Construction. Would revert $28.9 million. Construction funds have been re-requested.
28	Item 5225-301-0751, Budget Act of 2005 (Ch. 38/39, Stats 2005): (1) 61.31.002-Pleasant Valley State Prison, Coalinga: Bar Screen, Prelift Station – Construction. Would revert $925,000. Construction funds have been re-requested.

Staff Recommendation. Staff recommends approval of the vote-only projects.

Action

19. Finance Letter – New Mental Health Facilities.
Under the *Coleman* lawsuit, the federal courts have monitored the operation of the Mental Health Service Delivery System since 1995, and has issued numerous court orders requiring CDCR to take certain measures designed to deliver adequate mental health services to seriously mentally ill inmates. The Coleman special master did not accept the plan submitted earlier by CDCR and in January recommended that CDCR submit a plan by April 17, 2006 for acute and intermediate inpatient beds for all seriously mentally ill male and female inmates clinically determined to be in need of those levels of inpatient care. Based on current and forecasted bed need, CDCR has proposed a plan to build 345 acute and intermediate care beds and 350 acute care beds. In addition, the department has proposed to build treatment and program space for 650 existing EOP beds. These beds are not in response to a court order. However, the court has criticized the department for inadequate treatment space for the EOP in previous monitoring. The specific bed proposals are as follows:

- $4.5 million for preliminary plans for a 64 intermediate care facility mental health beds at California Medical Facility, Vacaville. The proposal includes housing, program space, and support services in response to an order from the *Coleman* court. Total estimated costs for the project are $59 million.
- $2.2 million for preliminary plans for a 25 acute and non/acute intermediate care mental health beds at California Institution for Women. The proposal includes housing, program space, and support services in response to an order from the *Coleman* court. Total estimated costs for the project are $34 million
- $8.4 million for preliminary plans for 128 Intermediate Care Facility Mental Health Beds at Salinas Valley State Prison. The proposal includes housing, program space, and support services in response to an order from the *Coleman* court. Total estimated costs for the project are $111 million
- $7.7 million for preliminary plans for 128-Bed Intermediate Care Facility Mental Health Beds at California State Prison-Sacramento. The proposal includes housing, program space, and support services in response to an order from the *Coleman* court. Total estimated costs for the project are $101 million.
- $15 million for preliminary plans for Acute Care Mental Health Beds at California State Prison-Sacramento. The proposal includes housing, program space, and support services in response to an order from the *Coleman* court. Total estimated costs for the project are $289 million.
- $250,000 for preliminary plans for Enhanced Outpatient Program (EOP) treatment space for 350 existing beds at California State Prison-Sacramento. Total estimated costs are $5.6 million.
- $250,000 for preliminary plans for EOP treatment space for 150 existing beds at Mule Creek State Prison. Total estimated costs are $2.7 million
- 250,000 for preliminary plans for EOP treatment space for 150 existing beds at California State Prison – Los Angeles County. Total estimated costs are $2.7 million

Staff Recommendation. To the extent that these requests are consistent with the court orders and the intent to provide additional treatment space for this population, staff recommends approval of the Finance Letter requests.
Action.

20. California Correctional Center, Susanville: Wastewater Treatment Plant Modifications--Preliminary plans

Budget Request. The budget proposes $1.6 million for preliminary plans for this project.

Analyst Recommendation. The LAO indicates that they recognize that the facility needs increased capacity, however the proposal would double the number of aeration ponds and sedimentation pools. The department could add just one of each and thus reduce project cost.

Staff Recommendation. CDCR indicates that the requested project meets the specifications of the engineers that have advised them on the system. Staff recommends approval of the proposal.

Action

21. Deuel Vocational Institute Wastewater Treatment Plan – Working Drawings and Construction

Request. The budget proposes $24.3 million for working drawings and construction of a wastewater treatment plant at DVI. A subsequent Finance Letter proposes an increase of $2.3 million because the department used a 3 percent escalation factor rather than a 5 percent factor that was allowable.

Analyst Recommendation. The LAO recommends rejecting $23 million from the January proposal and rejecting the Finance Letter, thereby only funding working drawings ($1.4 million). The LAO cites that the department's historical inability to complete working drawings for large projects.

Staff Recommendation. Staff recommends approval of the proposal and the Finance Letter. CDCR indicates that the current timeline for the project estimates that working drawings will be completed by February of 2007 and the construction will be completed in December 2008. CDCR indicates that a cease and desist order requires completion by March 2009 and that if they have to wait 5 months after the completion of working drawing to start construction that the project will likely extend beyond March 2009 and they would be at risk for fines of a minimum of $5 million.

Action.

22. California Institution for Men, Reception Center Central Facility, Chino: Electrified Fence -- Preliminary plans

Budget Request. The budget proposes $713,000 for preliminary plans for an electrified fence project. A Finance Letter adds $50,000 due to the complexity of the EIR for this project.

Analyst Recommendation. The LAO recommends rejecting the proposal and the Finance Letter augmentation. The department's Spring Finance Letters include a proposal to convert the RC Central Facility from a reception center to a general population facility. As a GP facility, new education and health space will need to be constructed. The current proposal for an electrified fence hugs the facility so closely it would not permit new construction within the fence. It is better to wait until the plans for a GP facility are complete and then begin plans on where to place the electrified fence.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejection of the proposal and the Finance Letter.

Action.

23. Minor Projects

Budget Request. The budget proposes $12.5 million for minor capital outlay projects, including $5 million related to the Farrell litigation in DJJ.

Analyst Recommendation. The LAO recommends adding Budget Bill Language to state that the $5 million addition is one-time only. The statewide minor projects funding is provided each year and traditionally the prior year's appropriation is used as the baseline funding. Since the $5 million is for specific DJJ projects to deal with the Farrell lawsuit, it should be one-time only.

Item 5225-301-0001(16)

> Funds appropriated in this item include $5,000,000 in one-time funding for Division of Juvenile Justice facilities renovations to comply with the Farrell lawsuit.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends approval of the funding and the proposed budget bill language.

Action.

24. Chuckawalla Valley State Prison, Blythe: Wastewater Treatment Plant Improvements -- Preliminary plans

Budget Request. The budget proposes $455,000 for preliminary plans for wastewater treatment plant improvements.

Analyst's Recommendation. The LAO recommends rejecting the proposal. The proposed improvements would not bring the plant into compliance with the current regional wastewater discharge requirements. The Regional Water Quality Board (RWQB) on April 18th, 2006 found that wastewater discharge violations are taking place at Chuckawalla as the prison is not sufficiently treating salt-waste from the drinking water treatment plant. The RWQB placed on hold the previous offer to allow the prison a less restrictive wastewater discharge permit and is investigating the facility. To deal with the salt-discharge of 200,000 gallons a day, Chuckawalla may have to build additional wastewater treatment capacity and purify its wastewater more than it is currently doing.

Staff Recommendation. Staff recommends holding this issue open pending affitional information.

Action.

25. California State Prison, Corcoran: Wastewater Treatment Plant Improvements--Working drawings

Budget Request. The budget proposes $220,000 to fund working drawings for wastewater treatment plant improvements at Corcoran. The Administration also proposes a Finance Letter requesting an addition $44,000 due to increased costs associated with the electrical system needing more design effort because of the need to change out the existing transformer.

Analyst's Recommendation. The LAO recommends rejecting the Finance Letter augmentation. The LAO does not believe that the department has not sufficiently justified the cost increase, and notes that if construction cost increases, that does not mean an automatic increase in design costs, as well.

Staff Recommendation. CDCR indicates that the original budget request underestimated the funding needed to complete the working drawings for the project. Staff recommends approval of the Finance Letter.

Action

26. Pleasant Valley State Prison: Bar Screen, Prelift Station – Construction (1990 Prison Construction Bond Funds)

Finance Letter Request. This Finance Letter requests $1.5 million for this construction project. The proposal indicates that the existing lift station is unable to effectively remove bulky debris from wastewater before it is pumped into the wastewater plant.

Analyst's Recommendation. The LAO notes that the 2005-06 budget appropriated $925,000 for the construction of this project. Those funds are proposed to be reverted. The LAO believes that the department has not sufficiently justified why the $925,000 appropriated for this project in 2005-06 was not enough for construction. The construction inflation for the last year has been 10%, not enough to justify 61% increase.

Staff Recommendation. Staff recommends approval of the project. CDCR indicates that the Inmate Labor program underestimated the cost for this project. CDCR indicates that delays to rebid the project will create delays which will increase the costs for the project.

Action

27. Statewide: Right Prison/Right Mission -- Studies

Finance Letter Request. This Finance Letter proposes $750,000 for studies to potentially relocate reception centers from three older institutions (San Quentin, DVI, and California Institute for Men) to three newer institutions (CCSP Solano, Pleasant Valley, and CSP Los Angeles).

Analyst's Recommendation. The LAO recommends rejecting the Finance Letter. The department would use the funds for environmental review and budget packages. However, environmental review is traditionally funded as part of the preliminary plans. Also, the department receives approximately $1.25 million/year for budget packages already. The department also knows what it wants to achieve with the study so it should move to preliminary plans directly rather than doing another study.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends rejection of this Finance Letter.

Action

28. Statewide: Habitat Conservation Plan

Finance Letter Request. This Finance Letter proposes to reappropriate funds for the habitat conservation plan. This appropriation was established to mitigate impacts resulting from the installation of electrified fences at various institutions. CDCR indicates that both the Department of Fish and Game and the United States Fish and Wildlife Service have issued the necessary permits. The CDCR indicates that due to the complexity of the project, this reappropriation is necessary to complete all phases of the project.

Staff Recommendation. These funds were originally appropriated in the Budget Act of 1998 and have been reappropriated in the Budget Acts of 1999, 2000, 2001, 2002, and 2003. Staff recommends that the Subcommittee direct the CDCR to provide written information to the Subcommittee that provides a detailed explanation of the reasons that funding originally appropriated in 1998 has not yet been spent, and provides a timeline for the expenditure of the remaining funds.

Action.

29. Capital Outlay Project management.

All CDCR capital outlay project costs include funding for project management, which is paid to a single consulting firm that the department has had a standing contract with since 1982. The role of the project management firm includes acting as a liaison between the department and the Architecture & Engineering (A&E) firm, as well as reviewing the work of the A&E firm.

In the LAO's review of proposed mental health capital outlay projects the LAO has grown concerned over the funding for project management. The funding is determined as a percentage of construction cost, and traditionally has been approximately 5 percent of construction (not part of base construction cost). However, with a preliminary analysis the LAO believes that 5 percent funding appears too high. The LAO has discussed these numbers with the department, and CDCR agrees that the funding may be excessive for the mental health capital outlay projects.

The LAO believes that further information is needed for the Legislature to ascertain if the project management funding level is justified. Information on what the real project management costs have been for past projects is needed before a determination can be made whether the project management 5 percent funding should, on a prospective basis, be reduced. Instead of arbitrarily reducing the budgeted amount in the 2006-07 budget proposals, the LAO recommends adopting the proposed SRL so that further analysis can be done for future proposals.

> **Item 5225-301-0001 - California Department of Corrections and Rehabilitation**
> The California Department of Corrections and Rehabilitation shall provide the Chair of the Joint Legislative Budget Committee by September 1, 2006 a report that details the number of hours and related expenditures on external consultants for project management during each phase (Study, Acquisition, Preliminary Plans, Working Drawings, Construction) of each of the capital outlay projects undertaken in the last three (3) years.

Staff Recommendation. Staff recommends approval of the supplemental report language proposed by the LAO.
Action.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, May 10, 2006
10:00 a.m.
Room 113

Consultant: Brian Annis

OPEN ISSUES: Select Business, Transportation & Housing / State & Consumer Services

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Department Budgets Proposed for Vote Only

1110 Dental Board of California

The Dental Board of California establishes and enforces standards of competency for those individuals seeking to practice as a dentist, dental hygienist, and registered dental assistant. The budget for the Board, as proposed in the January Governor's Budget, was approved by the Subcommittee on March 22. The Administration has since submitted the following Finance Letter:

1. **SB 299 Position and Funding (April Finance Letter).** The Administration requests ongoing funding of $79,000 (special fund) and 1.0 position to address the workload created by SB 299 (Chapter 4, Statutes of 2006, Chesbro), which established a new license type for individuals who are licensed in another state and who agree to work for at least two years in a clinic or dental school faculty position. This Finance Letter request is consistent with the fiscal estimates included in the bill analyses for SB 299.

   Staff Recommendation: Approve the request.

   Vote:

8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating its constituencies. The Governor's Budget proposes expenditures of $438,000 ($436,000 General Fund and $2,000 reimbursements) and 3.9 positions – a decrease of $21,000. The year-over-year decrease is due to the net of backing out deficiency funding of $24,000 for one-time retirement costs, and a $3,000 augmentation in 2006-07 for price increases. The Administration did not submit Budget Change Proposals for the Commission. This budget was heard on March 22, but kept open so the Administration could provide additional information on the year-over-year budget changes.

Staff Recommendation: Approve the Commission's proposed budget.

Vote:

Control Section 3.65 Minimum Wage Increase – Contingency Augmentation

Control Section 3.65 would provide authority to the Director of Finance to increase General Fund support and local assistance appropriations by up to $10.3 million for the following departments:

(1) Department of Forestry / Department of Parks and Recreation ($200,000 – for State employees)
(2) California Conservation Corps ($1.0 million – for State employees)
(3) Department of Aging ($500,000 – for non-State employees)
(4) Department of Social Services ($3.0 million – for non-State employees)
(5) Department of Developmental Services ($5.5 million – for non-State employees)

Any augmentations under this section would require enactment of legislation during the 2006-07 Legislative Session to increase the state minimum wage.

Staff Comment: The Governor has voiced support for legislation to increase the state minimum wage from $6.75 per hour to $7.25 per hour, effective September 1, 2006. This Control Section was proposed by the Administration to provide additional funding to comply with a higher minimum wage. To date, no minimum wage legislation has been enacted.

Staff Recommendation: Approve the request.

Vote:

Department Budgets Proposed for Discussion

Control Section 31.00 Administrative Procedures for Salaries and Wages

Control Section 31.00 (CS 31.00) specifies Department of Finance oversight responsibilities concerning salaries and wages, and the establishment of positions. The control section also establishes notification requirements for the Administration to report to the Legislature when positions are administratively established and when a position is re-classed to a position with a minimum salary step exceeding $6,334 per month.

Staff Comment: The Subcommittee heard the Department of Managed Health Care's budget on March 8, and discussed 15 positions that were administratively established for the Department in 2005-06 and that the Department anticipated would continue into 2006-07. The Department's interpretation of Control Section 31.00 is more permissive than the interpretation by the Subcommittee Staff and the LAO. The Subcommittee heard the CS 31.00 issue on March 22, and kept it open with the direction to Staff to work with the LAO and the Administration to clarify the control section language.

Revised Language: The LAO conferred with Committee Staff and the Department of Finance and modified the current Control Section 31.00 language to clarify legislative intent. The revised language is Attachment I at the end of this agenda.

Additionally, Staff recommends adoption of trailer bill language requiring Department of Finance reporting on permanent positions departments are keeping in the "blanket." Position information is reported annually to the Legislature in the Salary and Wages document that is provided each January. The "temporary help" category is a single line for each department in the Salary and Wages and does not list classifications – the intent of the category is to pick up student assistants, seasonal workers, and retirees moved there while running out vacation prior to actual retirement. There is concern that some departments are using "temporary help" funding to support permanent positions that have never been approved by the Legislature. The new reporting language may help determine how many departments are using temporary help funding to support permanent positions. The proposed placeholder trailer bill language is as follows:

The Director of Finance shall reconcile with the State Controller's Office and report, by October 1 of each year, the number of permanent employees by department appointed as full-time or part-time tenure in blanket positions for more than six consecutive months in the immediately preceding fiscal year.

Staff Recommendation: Approve the revised Control Section 31.00 budget bill language and the placeholder trailer bill language.

Vote:

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affairs Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns.

The issues listed below are cross-cutting issues that involve multiple Boards or Bureaus. Issues that relate to a single Board or Bureau are discussed under the heading of the individual Board or Bureau in the pages that follow.

Discussion / Vote Issues

1. **iLicensing Information Technology Project (BCP #1, April Finance Letter, Control Section 4.55).** The Administration requests $11.2 million over four years for an IT project with a total cost of $14.3 million (including redirected funds of $3.1 million and credit card processing fees of $1.4 million). Additionally, the Department requests 8.0 permanent positions for the project (increasing to 13 positions in 2008-09). The project would replace the existing on-line Professional Licensing system with a new iLicensing system. The existing system serves seven DCA licensing entities, but cannot be expanded to include the remaining 31 programs. The April Finance Letter adjusts the 2006-07 funding and positions to tie to an updated project schedule. Additionally, the Finance Letter requests to delete proposed Control Section 4.55, which provides authority to distribute costs and adjust Board and Bureau budgets for the cost of the project – instead, Board and Bureau budgets would be individually adjusted in the budget bill.

   Detail: The Feasibility Study Report (FSR) notes that DCA receives over 300,000 applications for professional licensure each year. Seven of 38 DCA licensing entities allow applicants to apply on-line, while the remaining 31 entities use paper applications. The on-line system would speed notification to initial applicants concerning whether their application is complete or deficient. The FSR indicates renewal applicants are anticipated to see a reduction in processing time from about 5 weeks to approximately 7 days. The Department of Finance letter approving the FSR notes that this project has an oversight criticality rating of “high.”

   The FSR lists benefits including processing efficiencies that reduce staff hours by about 26,500 hours, which would translate into a staff reduction of about 15 clerical positions. The BCP requests 13.0 new permanent positions (added over two years) for information technology functions. However, no future staff reductions are associated with this proposal because the DCA indicates clerical staff would be redirected to other backlogged projects or workload growth, and IT staff may be needed on an ongoing basis.

   The Finance Letter also requests budget bill provisional language (note, the below language has been slightly revised from what was in the Finance Letter, but revisions are supported by the Department of Finance):

The Department of Consumer Affairs shall report to the Department of Finance and the Joint Legislative Budget Committee at the conclusion of the iLicensing project, but no later than September 1, 2009, on the status of the project including implementation by boards and bureaus, funding allocations, preliminary usage information among new/existing licensees, and a workload analysis for the positions established to support this project. The Department of Finance may eliminate any position established in the 2006 budget, which supports the iLicensing project, if the workload cannot be justified by the report. In addition, in no case may a fee increase be imposed to support this project.

Staff Comment: As noted in the "Detail" section above, the FSR indicates efficiencies savings of over 26,000 staff hours. This efficiency savings comes from applicants using web-based systems to apply, receive information, and submit payments. One cost of the efficiencies is credit card processing fees, which DCA indicates will be $0 in 2006-07; $49,000 in 2007-08; $552,000 in 2008-09; and $666,000 in 2009-10 and thereafter. If the expected efficiencies are achieved (i.e. reductions in clerical workload and staff), these efficiency savings should be enough to fund the credit card fees. However, the Administration would prefer to budget assuming no efficiency savings and then adjust the budget in 2010 – 2011 (after the September 1, 2009 report has been submitted) to recognize any realized savings.

Staff Recommendation: Approve the April Finance Letter request, but reduce the multi-year amount by $1.4 million to reject the funding for credit card fees (approval would include revised budget bill language, deletion of Control Section 4.55, and related changes to the Boards and Bureaus 2006-07 budgets).

Vote:

1110 California Board of Accountancy

The California Board of Accountancy regulates Certified Public Accountants and Public Accountants, as well as accounting partnerships and corporations.

The Board's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending the resolution of Issue #1 below.

Discussion / Vote Issues

1. **Practice Privilege (Staff Issue).** Last year the Legislature approved a Budget Change Proposal to add 2.0 positions for workload related to SB 1543 (Chapter 921, Statutes of 2004, Figueroa), which allows individuals with accounting licensees in other states to engage in the practice of public accountancy in California (also known as Practice Privilege) under certain conditions. Last year's BCP request was based on the assumption that 1,000 individuals would annually provide notification to the Board. The Board reports that 3,282 notifications have been received through April 24, 2006, and that 5,100 are now expected for 2005-06.

   Staff Comment: The Board testified at the March 22 hearing that four additional positions would be required to fully address the unanticipated SB 1543 workload. With the revised estimates of 5,100 notifications, about three additional positions would be required. Subsequent to the hearing, the Board indicated that their preferred fix for Practice Privilege workload is the enactment of a policy bill to clarify notification requirements, which would be expected to reduce notifications to about 2,000 annually. Staff understands that Senator Figueroa (the author of SB 1543) is supportive of this approach and a policy bill (AB 1868) is moving through committees. If the policy-bill fix is successful, no additional staffing would be required.

   Staff Recommendation: Keep Practice Privilege staffing as budgeted (no vote is required).

2. **Shift of Operating Expense Funds to Personal Services.** The Board requests to shift 0.8 position from temporary help authority to permanent position authority and to fund the cost increase of $43,000 by shifting budgeted funds from Operating Expenses and Equipment to Personal Services.

   Staff Recommendation: Approve this request.

   Vote:

1110 Board of Barbering and Cosmetology

The Board of Barbering and Cosmetology licenses barbers, cosmetologists, electrologists, estheticians, and manicurists after determining, through an examination, that applicants possess the minimum skills and qualifications necessary to provide safe and effective services to the public. Additionally, the Board conducts both routine and directed health and safety inspections of related facilities and businesses.

The Board's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending the resolution of Issue #1 below.

Discussion / Vote Issues

1. **Exams in prison (Staff Issue).** The Board has recently discontinued the practice of providing exams in prisons. In the past, the Board would send staff into prisons to provide licensing exams to prisoners who had completed a vocational program. The intent was to provide individuals with a license prior to leaving prison so they would be immediately employable upon release. With the Administration's new emphasis on rehabilitation, staff understands there are concerns about the Board's decision to discontinue prison exams.

   Staff Comment. At its April 24, 2006 meeting, the Board voted to return to the process of conducting examinations in state correctional facilities. Staff understands that the Rules Committee will continue to monitor progress through upcoming confirmation hearings. Additionally, Budget Staff can check the status of this program during next year's budget process.

   Staff Recommendation: Take no budget action concerning this issue. The Subcommittee can revisit this issue during hearings next year as deemed necessary.

2. **Licensing Positions (BCP #1).** The Board requests an augmentation of $215,000 and 4.0 positions to address increased workload in license applications, renewals, cashiering, and other support functions. The Board indicates 4.0 positions were added for licensing activities in 2004-05; however, the number of license applications has continued to grow (applications are expected to grow in number from 47,626 in 2003-04 to 61,894 in 2006-07).

   Staff Recommendation: Approve this request.

   Vote:

3. **Computer-Based Testing (BCP #2).** The Board requests an augmentation of $393,000 in 2005-06 and $580,000 in 2006-07 and ongoing for a higher-than-anticipated number of applicants taking exams via computer-based testing. The Board expects the number of computer-based exams to increase by 20 percent in 2005-06 and an additional 10 percent in 2006-07.

   Staff Recommendation: Approve this request.

   Vote:

1110 Medical Board

The Medical Board licenses and regulates physicians, midwives, opticians, spectacle lens dispensers, contact lens dispensers, and research psychoanalysts. The Board administers an enforcement program designed to identify and discipline potentially dangerous physicians. The Board also has oversight responsibility for the Physician Assistant Committee and the Board of Podiatric Medicine.

The Board's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending the resolution of Issue #1 below.

Discussion / Vote Issues

1. **Implementation of Senate Bill 231 (BCP #1).** Senate Bill 231 (Chapter 674, Statutes of 2005, Figueroa) implemented most of the key recommendations made by the Board's Enforcement Monitor and included a fee increase to close the Board's deficit. The Board requests funding of $3.9 million in 2006-07, $3.5 million in 2007-08, and $91,000 ongoing, for implementation of SB 231. Additionally, 0.5 permanent and 10.0 two-year limited-term positions are requested.

   Background/Detail: The Board's sunset review in 2002 revealed numerous and significant problems with enforcement and public disclosure practices. The Legislature responded by enacting SB 1950 (Chapter 1085, Statutes of 2002, Figueroa), which, among other things, required the hiring of an independent Enforcement Monitor to evaluate the Board and issue recommendations. SB 231 enacted many of the statutory changes necessary to implement the recommendations of the Enforcement Monitor. SB 231 specifies, among other provisions, that physicians inform the Board of court judgments and convictions; that the Board post disciplinary actions against physicians on the Internet; and that the Board is authorized to fine physicians for failure to provide requested documents.

   Staff Comment: The independent Enforcement Monitor made several recommendations which are not included in this funding request. The Monitor recommended the reestablishment of 29 abolished enforcement positions. Additionally, SB 231 requires a diversion audit and a fiscal audit which are not funded in the Governor's Budget.

   Revised Funding Proposal: Committee Staff has worked with the LAO and the Department of Finance to address staffing and audit concerns and understands both entities would support the following changes:

   - Reclass the 10.0 requested limit-term positions to permanent. This would recognize the Monitor's recommendation to restore staff. Any additional staffing augmentations would be deferred to future budgets so the sufficiency of revenue to support additional staff can be further analyzed.
   - Augment funding by a net of $225,000 to recognize cost savings of $150,000 for a public-discloser study and to add funding of $375,000 for the diversion audit and the fiscal audit. Additionally, add the following budget bill language:

<u>Provision to Item 1110-001-0758</u>
Of the amount appropriated in Schedule (1) of this item, $375,000 shall be available for expenditure as follows:
(a) Upon acceptance of a request by the Joint Legislative Audit Committee, $300,000 may be expended to reimburse the Bureau of State Audits for a performance audit pursuant to Section 1 of Chapter 674, Statutes of 2005.
(b) Upon acceptance of a request by the Joint Legislative Audit Committee, or upon adoption of legislation during the second year of the 2005-06 regular session that removes Joint Legislative Audit Committee from the selection process, $75,000 may be expended to reimburse the Bureau of State Audits or another entity for a financial review pursuant to Business and Professions Code Section 2345(i).

Staff Recommendation: Adopt the Revised Funding Proposal, including the budget bill language.

Vote:

2. **Physician Diversion Program Staffing (BCP #2)**. The Board requests $181,000 in 2006-07 and $146,000 ongoing to fund 2.0 Compliance Specialist I positions in the Physician Diversion Program. The Physician Diversion Program is a monitoring and rehabilitation program that seeks ways and means to identify and rehabilitate physicians impaired due to the abuse of drugs or by a mental or physical illness.

   Staff Comment: The BCP indicates that the Program lost one clerical position due to vacant position elimination and that the 2.0 positions are necessary to address workload growth and keep Compliance Specialist caseloads within the established standards.

   Staff Recommendation: Approve this request.

   Vote:

3. **Evidence/Witness Augmentation (BCP #3)**. The Board requests $169,000 to address increased costs for expert reviewers and witnesses. The Board investigates approximately 2,000 complaints annually, and as part of the Enforcement Program: gathers evidence; interviews witnesses; secures expert testimony; and performs case review.

   Staff Comment: Actual expenditures have exceeded funding in the Evidence/Witness line item in each of the last four years. The requested augmentation is conservative in that it provides less total funding than was expended in each of the past three years.

   Staff Recommendation: Approve this request.

   Vote:

1111 State Athletic Bureau (Athletic Commission)

The State Athletic Commission will become a bureau directly under the Department of Consumer Affairs, effective July 1, 2006, pursuant to the statutory sunset date for the Commission, and the direction of Business and Professions Code Section 101.1(b). The State Athletic Commission approves, manages, and directs all professional and amateur boxing and full-contact martial arts events. The Board's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending the resolution of Issue #1 below.

Discussion / Vote Issues

1. **Sunset of the Athletic Commission:** Statute includes a sunset date for the Athletic Commission of July 1, 2006. To date, no legislation has been approved to extend the sunset date of the Commission; however, statute also provides for the functions of the Commission to continue under a Bureau. This means that the seven member Commission is eliminated, but that the staff positions continue under the direct management of the Administration through the Department of Consumer Affairs.

   Staff Comment: Staff understands that policy legislation will likely be adopted to restore the Commission.

   Staff Recommendation: Revise the budget bill to reflect the intent of the Legislature to restore the Commission effective January 1, 2007. (Add a budget bill provision to indicate the intent of the Legislature to approve legislation in the second year of the 2005-06 regular session to reestablish the State Athletic Commission effective January 1, 2007, and to provide authority for the Director of Finance to adjust budget appropriations, as necessary, to shift expenditure authority from the State Athletic Bureau to the State Athletic Commission).

   Vote:

2. **Staffing Augmentation:** The Commission requests an augmentation of $290,000 and 4.5 positions for regulatory workload. Note, last year the Commission received $46,000 related to SB 1549 (Chapter 691, Statutes of 2004, Figueroa), which added mixed martial arts to the Commission's responsibilities. With this year's augmentation, the Commission's costs more closely reflect SB 1549 fiscal assumptions.

   Staff Recommendation: Approve the request.

   Vote:

1111 Bureau of Security and Investigative Services

The Bureau of Security and Investigative Services ensures that only those who meet the prescribed qualifications to offer services as private investigators, repossessors, uniformed security guards, private patrol operators, alarm company operators, alarm agents, locksmiths, and firearm and baton training facilities be licensed, and enforces the regulations established by legislation for such licenses. The Bureau indicates that private security officers are part of the homeland security effort and receive four hours of homeland security training.

The Bureau's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending the resolution of Issue #1 below.

Discussion / Vote Issue

1. **Enforcement / Staffing issues.** Last year, the Subcommittee received letters from the Service Employees International Union (SEIU) and from the California Association of Licensed Security Officers, Guard, and Associates (CALSAGA) requesting a staffing augmentation for the Bureau. SEIU represents labor and CALSAGA is an employer organization, and both indicated they would prefer additional enforcement and more timely enforcement instead of fee reductions. The Legislature added funding and three positions. The Governor vetoed the augmentation with the following veto message:

   I am vetoing this legislative augmentation of $283,000 and 3.0 positions for the Bureau of Security and Investigative Services. This augmentation is not based on a justified programmatic need, but rather was made because there is a growing fund reserve in the Private Security Services Fund. The growing fund balance reflects a need for the Bureau to reduce fees paid by registrants and is not a reason to increase staffing.

   Staff Comment: Staff understands that the concerns expressed by labor and industry have not been resolved. The Bureau provided historical enforcement data this year that indicates the number of days the Bureau takes to close a guard complaint averaged 101 days between 1997-98 and 2003-04, but is projected to average 142 days between 2004-05 and 2006-07.

   The fee payers, both labor and management represented by SEIU and CALSAGA, support using their existing fee revenue to augment staffing at the Bureau to improve enforcement and the timeliness of action by the Bureau.

   Staff recommendation: Augment Bureau funding by $283,000 (special fund) and 3.0 positions, which is the same action the Subcommittee took last year.

   Vote:

2. **Implementation of SB 194 (BCP #1).** The Bureau requests funding of $1.4 million in 2006-07 ($1.1 million ongoing) and 20.0 positions to implement SB 194 (Chapter 655, Statutes of 2005, Maldonado), which requires proprietary private security officers, as defined, to meet specified requirements (including a criminal background check) and register with the Bureau. This request is similar to the fiscal estimates made when SB 194 was enacted ($1.5 million in first-year costs, $1.25 million ongoing).

   Staff Recommendation: Approve this request.

   Vote:

1111 Bureau of Private Postsecondary and Vocational Education

The Bureau of Private Postsecondary and Vocational Education is responsible for overseeing and approving private postsecondary vocational and degree-granting institutions to ensure they meet specified minimum statutory standards of quality education, fiscal requirements, and student protection.

The Bureau's budget was heard by the Subcommittee on March 22, but all budget issues were kept open pending further discussions on fee increases to remove the need for the proposed expenditure cuts.

Discussion / Vote Issues:

1. **Budget Reduction (BCP #5):** The Bureau requests an operating expenses and equipment funding reduction of $194,000 to reduce expenditures to align with revenues. The BCP does not include a discussion of the local assistance reduction; however, those were adjusted down in 2005-06 from $4.3 million to $2.8 million. The Bureau indicates revenue is less than previously anticipated, but it cannot justify a fee increase without further research.

   Staff Comment: The Governor proposes Bureau expenditures of $10.3 million (no General Fund) and 54.4 positions – an increase of $309,000 and a decrease of 3.8 positions from adjusted 2005-06 expenditures. However, 2005-06 expenditures include savings relative to the original 2005-06 budget of $11.7 million. The savings were necessitated by insufficient funds in the Private Postsecondary and Vocational Education Administration Fund, which has an expected fund reserve of $2,000 at the end of 2005-06.

   Other Legislative Action: SB 1544 (Chapter 740, Statutes of 2004, Figueroa), extended the sunset date of the Private Postsecondary and Vocational Education reform Act (Act) to July 1, 2007, and required the Bureau to contract with a Administrative Monitor. A current bill, SB 1473 (Figueroa) would recast and revise the Act. The intent of the bill is to focus more on enforcing student protection laws and shift some workload out of the Bureau to accrediting agencies. The final legislation may also include fee changes.

   Staff Recommendation: Recommend approval of the BCP request. The relevant policy committees are currently taking a comprehensive look at Bureau activities and revenues. Budget Committee action may be more appropriate next year after the conclusion of policy discussions.

   Vote:

2. **Fund Shifts (BCPs #1&2):** The Bureau requests to shift expenditures and positions that are currently funded from the Private Postsecondary and Vocational Education Administration Fund to the Student Tuition Recovery Fund ($243,000 and 3.0 positions) and federal funds ($184,000 and 2.0 positions). In the case of the former, the Bureau indicates this change better aligns the activity with the funding source. In the case of the federal funds shift, the Bureau indicates that the 2.0 positions will change duties and perform work related to veterans' education. A motivating factor for both of these shifts is the limited revenue in the Private Postsecondary and Vocational Education Administration Fund.

   Staff Recommendation: Approve these requests.

   Vote:

3. **Centralization of Positions (BCPs #3&4).** The Bureau requests to transfer 2.0 information technology positions to the Department of Consumer Affairs centralized Office of Information Support (OIS) and 2.0 Enforcement Program positions to the Department's centralized Complaint Mediation Program. In both cases the Bureau requests no net change in funding because it is assumed the Bureau would still use the services of these four positions and would reimburse the Department for the cost of the positions.

   Staff Recommendation: Approve these requests.

   Vote:

1111 Bureau of Automotive Repair

The Bureau of Automotive Repair administers the Automotive Repair Program and the Smog Check Program. Both Programs are designed to protect consumers and discipline unethical service dealers and technicians. The Bureau also administers the Consumer Assistance Program, which provides financial assistance to eligible consumers whose vehicles fail a biennial Smog Check inspection.

The budget for the Bureau, as proposed in the January Governor's Budget, was approved by the Subcommittee on March 22. The Administration has since submitted the following Finance Letter:

1. **Vehicle Retirement Program (April Finance Letter).** The Bureau requests a three-year limited-term augmentation of $3.7 million (special fund) to expand the Vehicle Retirement Program, which removes high-polluting vehicles from the roads. The Finance Letter indicates an additional 3,500 vehicles would be retired annually with this proposal. The program would be expanded by relaxing the certain vehicle-registration eligibility requirements. The Bureau indicates it can achieve this expansion without adding new staff.

   Detail: As part of the Consumer Assistance Program, the Bureau administers the Vehicle Retirement Program which pays consumers $1,000 to voluntarily retire their operational, but not Smog-check compliant, vehicle at an approved automobile dismantler. The base program is funded at $16.3 million and retires approximately 15,000 vehicles annually. The Bureau also has a Repair Assistance Program which assists low-income consumers with the repair of high-polluting vehicles. The special fund that would support this request (the High Polluter Repair or Removal Account) has a fund balance exceeding $40 million and this augmentation can be accomplished without a fee increase.

   Staff Comment: At the March 22 hearing, the Subcommittee approved a BCP for a $3.8 million augmentation for the Repair Assistance Program. This Finance Letter augments the related Vehicle Retirement Program.

   Staff Recommendation: Approve the Request.

   Vote:

2180 Department of Corporations

The Department of Corporation's (Corporations) budget was heard by the Subcommittee on March 8 and April 20, and the following issues were left open (no April Finance Letters were submitted for the Department):

Discussion / Vote Issue

1. **California Financial Information Privacy Act (Staff Issue).** The 2004 Budget Act included provisional language that required Corporations to report to the Legislature by January 10, 2006, on the Department's implementation of the California Financial Information Privacy Act (enacted by SB 1, Chapter 241, Statutes of 2003, Speier). The report suggests that the actual workload has been significantly less than anticipated. However, the Administration requests to keep all the existing SB 1 funding and positions.

   Background: Corporations submitted a BCP in 2004 requesting 22.0 additional positions to implement SB 1. Corporations proposed to audit all firms for SB 1 compliance during their regular audit visit. The Legislature approved reduced staffing for a complaint-driven process –10.0 positions were approved.

   Staff Comment: At the March 8 hearing, the Subcommittee directed staff to work with Corporations to develop and cost-out staffing alternatives that would reduce the Department's SB 1 staffing by eight to ten positions. The issue was kept open on April 20 so the Department could provide more detail and justification for its staffing alternatives.

   Staff Recommendation: <u>Hold action on this issue, and take a combined action after considering Issue #2 below</u>.

2. **Elimination of Investigator Positions (Staff Issue**). In 2003-04, Corporations eliminated all 14.0 of its Investigator positions as part of the 2003 Budget Act Control Section 4.10 process which required a statewide reduction of 16,000 permanent positions, as specified. Newspaper reports indicate that the cases the Department referred for criminal prosecution declined from 27 in 2002 to none in 2004. Without Investigator positions, this function falls to local law enforcement and the State Attorney General, who received no additional funds to perform this activity. Since the elimination occurred through Control Section 4.10, the Legislature did not consider this reduction through the Budget Subcommittee process, and no public discussion occurred on the affect these reductions would have on consumer protection.

Recent Legislative Action: Last year, the Joint Legislative Audit Committee approved a Bureau of State Audits study of Corporations activities. The audit was approved, but will not be complete until 2006-07.

Staff Comment: This issue was heard and left open at both the March 8 and April 20 hearings.

Revised Corporations Staffing Proposal: The Department has submitted a BCP-type document explaining and justifying the following adjustments, which shift positions approved for SB 1 workload to general enforcement / investigative workload (see also Issue #1 on the prior page) and result in no net change to funding or positions relative to the Governor's Budget:

- Maintain one Examiner position for SB 1 workload.
- Officially recognize that 9 of 10 positions originally established for SB 1 workload have been redirected to perform general enforcement work due to a low level of realized SB 1 workload.
- Reclass three of the nine positions to Investigators. This would restore the "Investigator" classification and function to the Department.

The Department justifies retaining these "SB 1" positions which have been performing non-"SB 1" enforcement work, by citing an increase in the level of enforcement activity: the number of Desist and Refrain Orders increased from 88 in 2004 to 142 in 2005; and the number of Administrative Actions increased from 65 in 2004 to 99 in 2005. Additionally, the reclassifications to create three Investigators would allow the Department to identify fraud while it is occurring versus after a consumer has lost money and to ensure compliance with Desist and Refrain Orders.

Additional Justification Detail: The Department provided the following information on May 4 to further justify the revised staffing proposal:

- The data show a correlation between staff and enforcement actions – there was a decrease in enforcement actions as the enforcement staff fell from 2002 through 2004, with an upturn as the "SB 1" positions were diverted to general enforcement in 2005 and 2006.
- There was a 30-percent increase in the licensee population between 2002-03 and 2004-05.

The Department does not maintain good data on rejected complaints, so Staff is unable to review data in this area to further analyze the staffing need.

Staff Recommendation: Approve the revised Corporations staffing proposal. (This action covers both Issues #1 and #2). The data Corporations maintains on complaints are not as comprehensive as those maintained by other departments. However, because the BSA will be conducting a thorough audit of the Department, it may be better to maintain the baseline number of positions, and make further adjustments, as warranted, next year after the BSA audit is complete.

Vote:

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand housing opportunities for all Californians. The Department administers housing finance, economic development, and rehabilitation programs with emphasis on meeting the shelter needs of low-income persons and families, and other special needs groups. It also administers and implements building codes, manages mobilehome registration and titling, and enforces construction standards for mobilehomes.

HCD was heard by the Subcommittee on March 8. The issues included below are issues left open on March 8, and April Finance Letter requests submitted subsequent to the last hearing.

1. **Transfer of Dormant Housing Funds back to the General Fund (April Finance Letter).** The Department proposes the addition of a budget bill transfer item to transfer $7.514 million from the Housing Rehabilitation Loan Fund to the General Fund. The 2000 Budget Act included a General Fund transfer of $25.0 million to the Housing Rehabilitation Loan Fund for purposes of providing local assistance for the Downtown Rebound Program. However, there have not been sufficient applications for the Adaptive Reuse Component of the Downtown Rebound Program to utilize the remaining funds. The Administration additionally requests to retain $486,000 in remaining Downtown Rebound Project funding, and with the adoption of authorizing trailer bill language, use that $484,000 to fund the budget requests outlined in issue numbers 2 and 3 below.

   Staff Comment: The Subcommittee has approved similar transfers to the General Fund in past budgets. The Subcommittee may want to add the retained $486,000 to the transfer item. This would be a more standard budget treatment. If the Subcommittee decides to approve funding for issues 2 and 3 below, those expenditures would be appropriated from the General Fund instead of the Housing Rehabilitation Loan Fund. The net General Fund impact is the same with either approach, but the Administration's proposal requires trailer bill language to allow the one-time expenditure of Housing Rehabilitation Loan.

   Staff Recommendation: Approve the transfer request, but increase the amount by $486,000 (to a total of $8.0 million). Conforming action for issues 2 and 3 below would remove the need for special trailer bill language.

   Vote:

2. **Housing Performance System (April Finance Letter).** The Administration requests a one-time augmentation of $286,000 to replace an information technology system used to track submittal of housing element data and produce annual reports (the total project cost is $599,000 including $314,000 in redirected resources). Additionally, the administration requests approval of trailer bill language to allow the use of Housing Rehabilitation Loan Funds for this purpose.

   Detail: The HCD has an automated system, the Housing Element Tracking System (HETS) to track the submittal and certification dates of housing elements of cities and counties in the state. HETS is approximately 20-years old and no longer supported by the vendor. HCD indicates that HETS has a high risk of failure and 1.0 new staff would be required to perform manual input if the new system is not approved. The new system would also include new functionality such as web-based reporting.

   Staff Comment: If the Subcommittee wants to fund this project, staff recommends conforming to the staff recommendation on issue number 1 above – approve the request but fund with a General Fund appropriation. If done in concert with a higher General Fund transfer in issue #1, this would not have a net General Fund impact and would avoid the need for trailer bill language.

   Staff Recommendation: Approve the project, but reject the requested trailer bill language and shift the funding to the General Fund.

   Vote:

3. **Statewide Housing Plan Update (April Finance Letter).** The Administration requests a one-time augmentation of $200,000 to update and print the Statewide Housing Plan (SHP). The funding would pay an external contractor. Statute requires an update of the plan by January 1, 2006 – the Administration did not meet that deadline, but would update the plan if this request is approved. Additionally, the Administration requests approval of trailer bill language to allow the use of Housing Rehabilitation Loan Funds for this purpose.

   Detail: The most current Statewide Housing Plan was published in May 2000. Statute was amended by SB 1777 (Chapter 818, Statutes of 2004, Ducheny) to change the biennial report requirement to a required update on January 1, 2006, again by January 1, 2009, and every four years thereafter. The Department indicates its base funding was insufficient to meet the January 1, 2006 deadline.

   Staff Comment: If the Subcommittee wants to fund this activity, staff recommends conforming to the staff recommendation on issue number 1 above – approve the request but fund with a General Fund appropriation. If done in concert with a higher General Fund transfer in issue #1, this would not have a net General Fund impact and would avoid the need for trailer bill language.

   Staff Recommendation: Approve the project, but reject the requested trailer bill language and shift the funding to the General Fund.

   Vote:

4. **Trailer Bill to Redirect Proposition 46 Housing Bond Funds to Transit-Oriented Housing (April Finance Letter).** The Administration requests trailer bill language to allow $15.0 million in unused Proposition 46 funds, originally set aside for the purpose of funding student housing through the Multifamily Housing Program, to be reallocated to the Transit-Oriented Housing Component of the Downtown Rebound Program.

   Detail: Proposition 46 included a provision to transfer any unused student housing funds, after 24 months, to the Adaptive Reuse Component of the Downtown Rebound Program. The Department indicates that demand for the Adaptive Reuse Component of the funds has been low and the funding would likely go unexpended for an extended period of time. This request would allow the expenditures in Transit-Oriented Housing Component of the Downtown Rebound Program, instead of the Adaptive Reuse Component.

   Staff Comment: Proposition 46 authorizes legislative adjustments for programmatic effectiveness or efficiency. The Legislature has approved similar adjustments to Proposition 46 funds in past budgets.

   Staff Recommendation: Approve the request.

   Vote:

5. **Economic Development Areas – Administrative Funding (BCP #5).** The Department proposes trailer bill language to eliminate the January 1, 2007, sunset date for Enterprise Zone application fees, which support HCD's costs of administering the economic development area programs. Absent the fee authority, HCD would need General Fund support of $698,000 to replace the fee revenue (half of this amount would be needed in 2006-07 due to the January 1, 2007, sunset).

   Background: The State currently designates four types of economic development areas intended to attract and retain businesses in economically-challenged communities. Currently, there are 42 Enterprise Zones (EZs), eight Local Agency Military Base Recovery Areas (LAMBRAs), two Manufacturing Enhancement Areas (MEAs), and one Targeted Tax Area (TTA). The HCD is charged with administering the economic development area programs; however, the Franchise Tax Board collects the Corporations Tax and the Personal Income Tax and may audit any company or individuals claiming the credits. The HCD is budgeted six positions and $698,000 to administer the program, with revenue derived from fees, not to exceed $10, for each Enterprise Zone application. Statute does not currently allow for the imposition of fees to cover the State's cost of the LAMBRA, MEA, and TTA programs. Last year, a budget trailer bill (AB 139) extended the fee authority sunset date until January 1, 2007. Businesses are only required to pay the fee if they choose to take advantage of the tax credit.

   HCD indicates 44,721 businesses used EZ tax credits and 2,789 businesses used tax credits in all the other economic development areas in 2003. The Administration estimates that State tax revenue in 2006-07 will be reduced by $350 million due to the tax credits. Additionally, the Franchise Tax Board estimates a total accumulated corporate tax carryover credit of $650 million.

   Staff Comment: In accordance with last year's legislative action, the Subcommittee may want to consider adding the same fee authority to LAMBRAs, MEAs, and TTAs, that is currently in place for EZs. If the fee authority is not broadened to include the other types of economic development programs, the EZs will continue to fund the HCD cost of administering these other programs.

   Discussions are continuing on policy bills to reform to the Enterprise Zones. However, staff is unaware of any proposals that would change the HCD budget need for 2006-07.

   Staff Recommendation: Approve the Administration's proposed EZ trailer bill but amend the language to add the same fee authority for LAMBRAs, MEAs, and TTAs.

   Vote:

2600 California Transportation Commission

The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

The Commission's budget was heard by the Subcommittee on March 30, but the BCP request was kept open after the Commission testified they had updated information on the workload and associated staffing need.

Discussion / Vote Issues

1. **Toll Bridge Seismic Oversight Positions:** The Administration requests a net augmentation of $171,000 and one position to perform oversight work related to the Toll Bridge Seismic Retrofit Program. Additionally, one-half of an existing position would be redirected to this workload. Oversight responsibility was added to the CTC's workload with the passage of AB 144 (Chapter 71, Statutes of 2005), which enacted a financing plan to complete work on the new east span of the San Francisco - Oakland Bay Bridge. AB 144 requires the Executive Director of the CTC to serve on the Toll Bridge Oversight Committee. The new position would be funded by reimbursements from the Bay Area Toll Authority.

   Revised CTC Request: The CTC believes they need more staff for oversight work related to the Toll Bridget Retrofit Program and requests two additional positions than what is provided for in the Governor's proposed budget.

   The requested additional positions would also be funded out of reimbursements from the Bay Area Toll Authority, which would increase the reimbursement by $224,000.

   The CTC indicates that the Bay Area Toll Authority supports the increase of the reimbursement to support the additional two positions.

   Staff Recommendation: Approve the revised CTC request.

   Vote:

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Caltrans' budget was heard by the Subcommittee on March 30. The issues included below are issues left open on March 30 and April Finance Letter requests submitted subsequent to the last hearing. Some issues left open on March 30, and some April Finance Letters, are not included here, but will be included on a Subcommittee agenda after the release of the May Revision of the Governor's Budget.

Vote-Only Issues

1. **Alternative Fuel Vehicles (BCP #4).** The Administration requests a one-time augmentation of $4.0 million (State Highway Account) to purchase alternative fuel vehicles and install exhaust filter trap devices on heavy-duty trucks. Caltrans indicates these measures are necessary to comply with mandates from the South Coast Air Quality Management District (SCAQMD), which is charged with bringing Orange County and the urban portions of Los Angeles, Riverside, and San Bernardino Counties, into federal air quality compliance by 2010.

   Background/Detail: Last year, the Subcommittee approved a similar Finance Letter to augment the Caltrans budget by $3.7 million (one-time) for SCAQMD mandates. At the time, the Administration indicated there was an ongoing cost; however, they preferred to review the need on an annual basis. Caltrans indicates 18 highway sweepers and 29 heavy-duty trucks are due for replacement in 2006-07. The new vehicles would either use compressed natural gas (27 vehicles) or be retrofitted with specially fitted exhaust filter traps (20 vehicles). The exhaust filter traps for heavy duty trucks are less expensive that compressed natural gas vehicles ($8,000 versus $106,000 per vehicle); however, Caltrans cannot pursue that option unless it submits a Technical Infeasibility Certification Request to SCAQMD to justify that there are not enough compressed natural gas vehicles available.

   Staff Comment: This issue was discussed at the March 30 hearing, and kept open so Caltrans could provide additional detail on alternative fuel vehicles in the State fleet. Caltrans reports that 3,563 of 13,800 total vehicles are considered "green vehicles."

   Staff Recommendation: Approve the request.

   Vote:

2. **Fleet Insurance Rate Decrease (April Finance Letter #10).** The Administration requests a budget reduction of $1.1 million to reflect a lowered assessment for fleet insurance costs negotiated by the Department of General Services. The revised cost for Caltrans is $7.0 million, which is $1.1 million less than the funding provided for this purpose in the Governor's Budget.

   Staff Comment: The Subcommittee approved a similar budget adjustment for the California Highway Patrol.

   Staff Recommendation: Approve the request.

   Vote:

3. **Technical Corrections to the Governor's Budget (April Finance Letter #9).** The Administration requests various technical budget adjustments to correctly reflect: 2006-07 adjustments for past-year budget actions; current BCP requests; and other technical-type budget shifts.

   Staff Comment: The Subcommittee approved a similar technical correction Finance Letter last year for Caltrans.

   Staff Recommendation: Approve the request.

   Vote:

4. **Project Resourcing and Schedule Management (April Finance Letter #4).** The Administration requests budget actions to provide a total of $11.6 million for the Project Resourcing and Schedule Management (PRSM) information technology (IT) project, which will improve employee timekeeping in the Capital Outlay Support program by allowing more accurate reporting of employee time spent by individual project. The request is split between an appropriation of $4.5 million (special fund) and a reappropriation of $7.1 million. The total request ties to the amount originally approved for the project by the Legislature in the 2001 Budget Act.

   Background / Detail: The 2001 Budget Act appropriated $11.6 million for the PRSM project. A single project bid was received that resulted in a revised project cost of $26.1 million. Instead of requesting additional funds, the Administration performed a value analysis, a market analysis, and produced an updated special project report. A portion of the original funding was allowed to revert ($4.5 million). Caltrans has worked with DGS, and feels the revised project can be accomplished with the $11.6 million originally estimated in 2001. The PRSM system would allow project managers to accurately track project expenditures and project support expenditures while a project is ongoing.

   Staff Recommendation: Approve the request.

   Vote:

5. **Federal Transportation Act – Adjustments to the Mass Transportation Budget (April Finance Letter #1).** The Administration requests an augmentation in federal fund expenditure authority of $442,000 and 5.0 three-year limited-term positions to administer two new federal grant programs established by the federal Safe, Accountable, Flexible, and Efficient Transportation Equity Act-Legacy for Users (SAFETEA-LU).

   Detail: The two new grant programs, Job Access/Reverse Commute and New Freedom are intended to increase the mobility of certain specified disadvantaged populations, specifically those on welfare or with low income, and the disabled. California is expected to receive approximately $128 million through 2009 through these two programs. The Metropolitan Planning Organizations (MPOs) will administer $99.8 million for the large urbanized areas within the state, and Caltrans will administer $28.7 million for the small urbanized and rural areas.

   Staff Recommendation: Approve the request.

   Vote:

6. **Federal Transportation Act – Adjustments to the Traffic Operations Budget (April Finance Letter #3).** The Administration requests an augmentation in State Highway Account expenditure authority of $231,000 and 2.0 three-year limited-term positions for the development and implementation of a federally required State Strategic Highway Safety Plan (Plan). Without a federally-approved Plan, the state may lose $90 million annually in federal safety funds.

   Detail: SAFETEA-LU established a new core Highway Safety Improvement Program (HSIP) and requires increased coordination of safety-related expenditures between states and local agencies. The Plan would increase coordination by adoption of a set of strategies and countermeasures, to be guided by agreed upon criteria and performance-based measures. Pursuant to federal direction, the Plan would look at not just highway structural improvement, but also enforcement, public education and emergency medical services. Caltrans indicates it will also involve the California Highway Patrol and Department of Motor Vehicles in the process.

   Staff Recommendation: Approve the request.

   Vote:

Discussion / Vote Issues

1. **Federal Transportation Act – Adjustments to the Local Assistance Support Budget (April Finance Letter #2).** The Administration requests an augmentation of $3.2 million (primarily State Highway Account) and 33.0 positions (28.0 three-year limited-term and 5.0 one-year limited-term) to administer federal grant programs revised and/or added by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act-Legacy for Users (SAFETEA-LU).

   Detail: The Finance Letter indicates that $2.7 million of the request (and 28.0 three-year limited-term positions) would provide: (1) administration for 283 new local assistance projects per year; (2) the coordination of the Local Assistance Highway Safety Improvement Program; (3) the coordination of the Safe Routes to School Program; and (4) a National Environmental Policy Act delegation pilot project. The remaining $414,000 (and 5.0 one-year limited-term positions) would address the backlog in closing out federal invoice vouchers, in order to accelerate the receipt of final federal payments.

   Staff Comment: Enabling legislation is required to allow Caltrans to participate in the National Environmental Policy Act (NEPA) pilot project. Assembly Bill 1039, which was approved by the Senate on May 4, 2006, and by the Assembly on May 5, 2006, as part of the infrastructure bond package, contains the authority for California to participate in the federal NEPA pilot project.

   Staff Recommendation: Approve the request.

   Vote:

2. **Short Term Congestion Relief Projects (April Finance Letter #6).** The Administration requests funding of $40.3 million (State Highway Account - $30 million one-time and $10.3 million ongoing) and 9.0 positions to complete a number of projects over an 18-month period intended to provide short-term congestion relief in selected locations on the state highway system.

Detail: The Finance Letter indicates $20 million in one-time funding would be used on the Interstate 210 corridor in Los Angeles ($13.4 million for metering lights, $1.3 million for new detection stations, $5.3 million for consulting services including design-build). The Department notes this project would be a model for this type of traffic congestion relief strategy, which could later be expanded to other corridors.

The request includes permanent funding of $6.2 million for the Freeway Service Patrol program. Of the amount requested, $800,000 would be directed to the California Highway Patrol, for their administration of the program (conforming budget action is required for the CHP). The remaining $5.4 million would fund an additional 108,000 tow-truck hours and assist approximately 90,000 motorists. By clearing disabled vehicles more quickly, this program relieves traffic congestion.

The remaining $14.1 million ($4.1 million ongoing) would fund various statewide projects to replace loop detectors, install changeable message signs, install other signal coordination equipment, and maintain existing equipment.

Staff Comment: The Department indicates it has changed its implementation strategy since the Finance Letter was released to utilize traditional procurement instead of design-build. According to Caltrans, a statutory amendment would be needed to use design build, and the Department feels this particular project can be implemented at the same cost and within the same timeframe with traditional procurement.

Suggested Questions: The request for $20 million to support improvements to the 210 corridor in Los Angeles, is unusual, in that most improvements of this nature would be approved by the California Transportation Commission through the SHOPP or STIP program.

- Why was the $20 million for the 210 not requested through the CTC as part of a SHOPP or STIP project?
- Does the Administration intend to request funding for other projects in future budget years, or would future requests go through the CTC?

Staff Recommendation: Approve this request. Also approve conforming action for the CHP to allow it to receive reimbursement of $800,000 from Caltrans for CHP's administration of the Freeway Service Patrol Program.

Vote:

3. Corridor Mobility Management Program (April Finance Letter #7). The Administration requests one-time funding of $5.0 million (State Highway Account) to further the development and implementation of Caltrans' Corridor Mobility Management Program (CMMP). Caltrans recently used existing budgetary authority to conduct a corridor management plan on Interstate 880 in the Bay Area. This request would produce a similar plan for segments of three additional corridors: I-405, I-580/205, and I-5.

Detail: Caltrans indicates that UC Berkeley produced the I-880 corridor plan at a cost of $1.8 million. Caltrans assumes future corridor plans would cost approximately $1.8 million each, whether they are produced through a UC campus or a private vendor. The Finance Letter indicates that the plans would determine exact causes and exact locations of traffic congestion and help identify, evaluate, and recommend exact infrastructure improvements and operational and management strategies to reduce congestion. The intent of these plans is to prioritize expenditures and create efficiencies – by producing higher levels of congestion relief per dollar spent. Caltrans indicates that the I-880 plan will not only help in planning future projects, but may also cause the local transportation authority to revise or reprioritize projects in various pre-construction stages.

Staff Comment: The Finance Letter indicates that seven additional corridors have also been identified by Caltrans for this program. To complete all 10 corridors, the Legislature would have to approve additional one-time funding of approximately $12.0 million. The $5.0 million requested for 2006-07 is intended to be available to begin work on another of the seven corridors if the cost for the three requested falls below $5.0 million.

Suggested Questions: The Subcommittee may want to get a better idea of the Administration's intent concerning future budget requests in this area.

- Are the three corridors requested here an additional "pilot" to be evaluated prior to future request?
- Does Caltrans consider the remaining seven to be in the pilot, or is the perceived need limited to these ten corridors?
- Does Caltrans think this type of workload is ongoing and should it be budgeted on a permanent basis?

Staff Recommendation: Approve the request.

Vote:

4. **Dismantle the Internal Service Fund (BCP #16).** The Administration requests approval of trailer bill legislation to dismantle the Internal Service Fund (ISF), known as the Equipment Service Fund (ESF). The Equipment Program would continue as a distributed program. The ESF never produced the anticipated savings and dismantling the ISF will also eliminate the rental rate development process and the extensive fiscal and legal accounting requirements associated with the ISF.

   Background: The ISF was established in 1997-98 for the cost recovery of the Department's mobile fleet equipment and services. The vision was for the Division of Equipment to become a full rental agency operating as a private business model with the ability to expand or contract to meet customer's needs, serve other tax-supported entities and to provide cost measures for managing the fleet. Caltrans has been unable to either reduce overall usage by better distributing the fleet between programs or to rent idle equipment to other public entities as originally intended when the ESF was created.

   In the 2005 Budget Act, the Administration and the Legislature agreed to budget bill language and funding for the Office of State Audits and Evaluations (within the Department of Finance) to evaluate the appropriateness of operating the Equipment Service Program as an internal service fund. A report to the Legislature was due from the Department of Finance on January 10, 2006. This report was submitted on March 24, 2006.

   Staff Comment: This issue was kept open at the March 30 hearing to give staff more time to review the Office of State Audits and Evaluations report. The report does not contain a recommendation, but rather lists pros and cons of each option. For the Administration's recommended option of dismantling the Internal Service Fund, the report indicates no efficiencies were substantiated by Caltrans for the existing program and that rental rate development and other administrative requirements added workload and cost to the program. The report adds support to the Administration's conclusion that the existing program has added costs but not achieved efficiencies, and should be dismantled.

   Staff Recommendation: Approve the request.

   Vote:

5. **Owner Controlled Insurance Program (BCP #9).** The Administration requests an augmentation of $1.4 million (State Highway Account) and 1.0 position to implement the statewide Owner Controlled Insurance Program (OCIP) as a pilot program with 82 projects. With the OCIP, the Department, as the owner of the highway, would purchase major insurance coverage for its construction projects. Under the current process, Caltrans pays insurance costs indirectly through inclusion of the costs in the contractors' bids. The funding of $1.4 million would only cover the cost of hiring a consultant – the cost to purchase the insurance could exceed $120 million (according to the Caltrans) and the total project costs (including construction, staffing, etc.) would be about $5.2 billion. Caltrans believes the $120 million plus in extra insurance costs would be more than offset through lower bids – the savings is estimated to be in the range of $40 million to $65 million.

LAO Recommendations: The LAO finds that "the cost savings that could be realized through an OCIP are much more uncertain than Caltrans indicates." Accordingly, the LAO recommends a smaller pilot and the following budget bill language (note: this is a revised recommendation from what was included in the LAO's *Analysis of the 2006-07 Budget Bill*):

<u>Budget Bill Language Limiting Size of Pilot:</u>
Up to $1.4 million appropriated in this item is available for support of Caltrans' Owner Controlled Insurance Program to administer insurance coverage for contractors on projects with combined total costs not to exceed $750 million.

<u>Supplemental Report Language:</u>
By April 1 of 2007, 2008 and 2009, respectively, Caltrans shall report to the Joint Legislative Budget Committee and the policy committees on transportation on the following:

- *The type and value of projects included in the pilot.*
- *The amount that Caltrans would have paid contractors for comparable insurance coverage in the absence of an owner controlled insurance program (OCIP), as identified in documentation submitted with contractors' bid statements.*
- *The amount the department paid in insurance premiums, deductibles, program administration, and any other OCIP-related costs incurred during the pilot.*
- *The estimated net cost or benefit of implementing the pilot, as identified by comparing contractors' estimates for insurance costs in the absence of an OCIP to the amount the department paid in insurance-related costs under the OCIP.*
- *An assessment of the projects that were best suited for inclusion in an OCIP and the projects that were least well suited, in terms of cost effectiveness.*

Staff Comment: The Subcommittee heard this issue on March 30, and it was kept open so additional information could be provided. Caltrans provided copies of a

June 1999 US General Accounting Office report on transportation OCIPs and a July 2003 California Department of General Services report on office building OCIPs.

US General Accounting Office (GAO) Report
The GAO looked a six transportation projects and reported that OCIPs provided savings of 1 to 3 percent of total project costs (according to project owner estimates). The GAO report also included the following findings and/or comments:

- The major advantages of OCIPs include savings from buying insurance “in bulk,” eliminating duplication in coverage, handling claims more efficiently, reducing potential litigation, and enhancing workplace safety.
- The potential disadvantages of wrap-up insurance include requiring project owners to invest more time and resources in administration.
- A limitation of OCIPs is that projects must be sufficiently large, or contain at least a sufficient amount of labor costs, to make wrap-up insurance financially viable.
- Some contractors dislike OCIPs because it reduces a contractor’s profits from insurance rebates.

California Department of General Services (DGS) Report
The DGS looked at State building facilities construction projects and found that OCIPs reduced State costs in the range of 1 to 2 percent.

Staff Recommendation: Approve the request with the LAO recommended budget bill language and supplemental report language.

Vote:

Attachment I – Amendments to Control Section 31.00

SEC. 31.00. (a) The appropriations made by this act shall be subject, unless otherwise provided by law, to Section 13320 of, and Article 2.5 (commencing with Section 13332) of Chapter 3 of Part 3 of Division 3 of Title 2 of, the Government Code, requiring expenditures to be made in accordance with the allotments and other provisions of fiscal year budgets approved by the Department of Finance.

(b) The fiscal year budgets shall authorize, in the manner that the Department of Finance shall prescribe, all established positions whose continuance for the year is approved and all new positions. No new position shall be established unless authorized by the Department of Finance on the basis of work program and organization.

(c) The Director of Finance, or his or her authorized designee, shall notify the Chairperson of the Joint Legislative Budget Committee within 30 days of authorizing any position not authorized for that fiscal year by the Legislature or any reclassification to a position with a minimum step per month of six thousand three hundred thirty-four dollars ($6,334) as of July 1, 2006. ~~He or she also shall report all transfers to blanket authorizations and the establishment of any permanent positions out of a blanket authorization.~~

(d) *It is the intent of the Legislature that all positions administratively established pursuant to this section that are intended by the administration to be ongoing be submitted to the Legislature for approval through the regular budget process as soon as possible.* All positions administratively established pursuant to this section during the 2006-07 fiscal year shall terminate on June 30, 2007, except for those positions that have been (~~a~~ *1) approved by the Legislature as part of the regular budget process* ~~included in the Governor's Budget~~ for the 2007-08 fiscal year as ~~proposed~~ new positions, or (~~b~~ *2*) approved by the Department of Finance ~~and reported to the Legislature~~ after the 2007-08 Governor's Budget submission to the Legislature *and subsequently reported to the Legislature prior to July 1, 2007*. The positions identified in ~~(a) and (b)~~ *(2)* above may be reestablished by the Department of Finance during the 2007-08 fiscal year, provided these positions are shown in the Governor's Budget for the 2008-09 fiscal year as submitted to the Legislature, ~~or in subsequent Department of Finance letters to the Legislature, and~~ provided that these positions do not result in the establishment of positions deleted by the Legislature through the budget process for the 2007-08 fiscal year. *The Department of Finance will notify the Legislature within 30 days of the reestablishment of positions approved in the 2007-08 fiscal year pursuant to (2) above.*

(e) No money in any 2006-07 fiscal year appropriation not appropriated for that purpose may be expended for increases in salary ranges or any other employee compensation action unless the Department of Finance certifies to the salary and other compensation-setting authority, prior to the adoption of the action, that funds are available to pay the increased salary or employee compensation resulting from the action. Prior to certification, the Department of Finance shall determine whether the increase in salary range or employee compensation action will require supplemental funding in the 2007-08 fiscal year. If the Department of Finance determines that supplemental funding will be required, no certification shall be issued unless notification in writing is given by the Department of Finance, at least 30 days before certification is made, to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or a lesser time which the chairperson of the joint committee, or his or her designee, determines.

(f) A certification on a payroll claim that expenditures therein are in accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the Controller that these expenditures comply with the provisions of this section.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Thursday, May 11, 2006
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Dave O'Toole

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Vote-Only Budget Items

Section 1.00--Budget Act Citation
Section 1.50--Intent and Format
Section 1.80--Availability of Appropriations
Section 3.00--Defines Purposes of Appropriations
Section 4.30--Lease-Revenue Payment Adjustments
Section 4.80--State Public Works Board Interim Financing
Section 4.90--Architecture Revolving Fund Transfer
Section 4.95--Inmate Construction Revolving Account Transfer
Section 6.00--Project Alterations Limits
Section 8.00--Antiterrorism Federal Reimbursements
Section 8.51--Federal Funds Accounts
Section 8.52--Federal Reimbursements
Section 8.53--Notice of Federal Audits
Section 9.20--Administrative Costs Associated with the Acquisition of Property
Section 9.30--Federal Levy of State Funds
Section 9.50--Minor Capital Outlay Projects
Section 25.25--21st Century Projects
Section 25.50--SCO Apportionment Payment System Assessments
Section 26.00--Intraschedule Transfers
Section 28.00--Program Change Notification
Section 28.50--Agency Reimbursement Payments
Section 30.00--Continuous Appropriations
Section 32.00--Prohibits Excess Expenditures
Section 33.00--Item Veto Severability
Section 34.00--Constitutional Severability
Section 37.00--Urgency Clause

VOTE ON VOTE-ONLY ITEMS:

DISCUSSION ITEMS

Control Section 8.50

Budget control section 8.50 of the Budget Act of 2005 encourages state agencies to maximize the use of federal funds and apply for more federal funds. This control section appropriates any new federal funds subject to the conditions set forth in Section 28.00 and other provisions of the Budget Act.

Department of Social Services Item 5180-403 governs the expenditure of funds from the Temporary Assistance for Needy Families (TANF) reserve. This item makes expenditure of TANF reserve funds subject to the notification requirements and conditions specified in Section 28.00.

The LAO has identified a concern with the Administration's current practice of using Section 8.50 to substitute TANF funds for other federal funds authority without legislative consultation. Although technically allowed under that item, the practice is in conflict with legislative intent expressed in Item 5180-403, which governs the use of the TANF reserve.

To clarify legislative control over TANF block grant funds after the budget has been enacted, the following amendment to Section 8.50 of the budget bill will indicate that substitution of TANF block grant funds for existing federal funds authority is subject to the same requirements set forth in Section 28.00.

> *(c) Paragraph (a) of this Section does not apply to federal Temporary Assistance for Needy Families (TANF) block grant funds. Any expenditure of TANF funds in excess of what is authorized in this act is subject to the notification procedures and requirements set forth in Section 28.00, Provision 4 of Item 5180-101-0001, or Item 5180-403, whichever is applicable.*

Staff Recommendation: ADOPT paragraph (c) by adding to control section 8.50.

VOTE:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, research, and liaison with local governments. The OPR also oversees programs for small business advocacy, rural policy, and environmental justice. In addition, the office has responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and overseeing the California Service Corps. The Governor's budget funds 72.3 positions and expenditures of $47 million.

1. Finance Letter: California Service Corps Volunteer Matching Database
The Administration requests that the Office of Planning and Research budget be increased by three positions and $1,140,000 General Fund in 2006-07, $1,203,000 in 2007-08, and $766,000 ongoing, to enable the California Service Corps to develop and maintain an Internet-based volunteer matching portal. This new service is intended to match volunteers with opportunities spread throughout California. The department believes this initiative will address California's low participation in volunteer opportunities relative to other states (46th in the nation) and the need for a centralized system to connect volunteers to opportunities.

The California Service Corps (CSC) has modeled the proposed web portal on the USA Freedom Corps web site (usafreedomcorps.gov), which consolidates volunteer opportunity data and directs the prospective volunteers to one of the main existing volunteer matching web sites, such as volunteermatch.com and 1-800volunteer.org or "hubs," such as local volunteer centers. The proposed portal will feature California opportunities exclusively, tying between 40 and 60 hubs in the state. In order to encourage up-to-date and accurate postings on the hubs, the CSC expects to sign quality assurance agreements with the organizations.

Staff Comment: This is not the first state-led effort of this kind. In 2001, the former Governor's Office of Service and Volunteerism (now the CSC) initiated a web site with a searchable database, a system that was discontinued in 2004 due to its search limitations, particularly a lack of volunteer opportunities. The proposed portal is intended to address those limitations, utilizing input from federal, state, local, education, and nonprofit organizations.

The BCP includes a substantial marketing component that will largely determine the success of the portal. Through a half million dollars in marketing in the first year, followed by lesser amounts in subsequent years, the OPR hopes to drive Internet users to the state portal, as opposed to one of the existing volunteer matching web sites.

Given that this is a new activity with some uncertainty over how the local agencies and nonprofits will respond, the Subcommittee may wish to fund the request for a limited period and review progress in a subsequent budget year.

Staff Recommendation: APPROVE the Finance Letter for two years and adopt the following budget bill language to Item 0650-001-0001:

No later than April 1, 2007, the Office of Planning and Research shall report to the Budget Committees of the Legislature on performance indicators for the Online Volunteer Matching Program. This report shall provide a status of the Program using information available to identify the number and name of volunteer programs who received volunteers referred by this system, web site hit count by month, number of posted volunteer opportunities by month, number of first-time volunteers, number of volunteer hours directly attributable to the statewide system, and other measures to fully disclose the impact of the Online Volunteer Matching Program.

VOTE:

0840 State Controller's Office

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. The Governor's budget funds 1,142.3 positions (including 54.7 new positions) and $27.8 million in expenditures.

VOTE-ONLY ISSUES

A. BCP: Apportionments Payment System

The SCO requests $776,000 (special funds) for a third year of funding to overhaul the state's Apportionment Payment System. The existing system has become dangerously overburdened and prone to breakdown, endangering a timely distribution of apportionments to local agencies. After this final year of system replacement, ongoing costs to maintain the system are expected to be $62,000. Funding for this activity is provided through a statewide budget item, Control Section 25.50.

B. Finance Letter: Human Resource Management System (HRMS)—21st Century Project

The SCO requests an augmentation of $35.1 million ($17.7 million General Fund) and 77.6 two-year limited-term positions to implement the design, development, and initial rollout phases of the HRMS. This request amends the Governor's Budget proposal by increasing the number of positions from 46.5 to 77.6 and decreasing General Fund expenditures from $20.1 million to $17.7 million, to reflect the final contract to be signed with the HRMS vendors.

Based on the contract to be signed, the total cost of the project will be $138.4 million, $60.9 million of which will be General Fund. This new total is $6.3 million over the previously assumed cost, identified in the feasibility study report. The project was first funded in 2003-04 and is expected to complete in 2009-10.

This workload is part of an ongoing multi-year project to replace existing employment history, payroll, leave accounting, and position control systems. The HRMS will also include a statewide time and attendance capability, greatly enhancing the Controller, Administration, and Legislature's fiscal oversight abilities. For example, it is expected that the system will eventually capture actual salary savings at each department, replacing the arbitrary five percent standard used statewide today.

VOTE on Vote-Only Issues A and B:

DISCUSSION ISSUE:

1. The California Automated Travel Expense Reimbursement System (CalATERS)

The SCO is currently implementing, maintaining, and rolling out the California Automated Travel Expense Reimbursement System (CalATERS), a computer system that automates the previously manual process of reimbursing state employees for travel costs. The benefits of using CalATERS include allowing state employees to submit travel claims easily, improved accuracy through automation, and centralized audits of travel rules and departmental policies. The CalATERS program began in July 2000 and has now been implemented in dozens of departments, affecting more than half of state employees.

Staff Comment: In the original Feasibility Study Report and in other budget documents filed since then, the SCO asserted that between $8 and $9 million in savings would be achievable by implementing CalATERS statewide. In the CPR, the SCO's staff identified a savings level of $9.3 million, noting that CalATERS reduces processing time from two weeks to five days for a typical expense claim.

While the department has encountered difficulties in quantifying savings to date in the partial rollout, process efficiencies have occurred in the administrative offices of department that have adopted CalATERS. In the SCO's office (where all travel claims must eventually go) claims audits and processing workloads have been streamlined, allowing SCO auditors to conduct more travel claim audits.

Notwithstanding the delays in recognizing savings, significant savings still appear achievable. According to the SCO, even though CalATERS has been rolled out with about half of state departments, approximately 80 percent of the claims they receive are still submitted by paper. If CalATERS were rolled out statewide, the SCO's auditing workload could decrease further and efficiencies gained, statewide, in travel reimbursement processes.

At the March 23, 2006, hearing, the SCO reported on the difficulty in quantifying savings achieved through this process and addressed the issue of implementing CalATERS on a statewide basis. A three-year grace period for full implementation will allow departments to phase in the system and adjust their budgets accordingly.

The following trailer bill language would effect a statewide rollout of CalATERS:

> *All state agencies shall utilize the California Automated Travel Expense Reimbursement System (CalATERS) by July 1, 2009.*

Staff Recommendation: ADOPT the trailer bill language above and implement CalATERS statewide.

VOTE:

0890 Secretary of State

The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary law and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, and Information Technology and Management Services Divisions.

The Governor's budget funds 484.5 positions (including 31 new positions) and budget expenditures of $77.2 million ($32.0 million General Fund).

1. Help America Vote Act (HAVA) Spending Plan
In the fall of 2002, Congress passed, and the President signed, legislation to fund improvements to states' election systems. HAVA funds have been appropriated nationwide with the direction to implement broad election reforms and improve the accuracy and performance of each state's voting processes. For California, these activities include developing a statewide voter database, voter outreach, poll monitoring, replacing punch card voting machines with more modern equipment, and other related activities. Since establishment, California has received $352.2 million in federal funds to implement mandates affecting the administration of federal elections, and $9.3 million in interest earned. The 2005-06 budget reappropriated $252.9 million in federal funds for these purposes.

The 2006-2007 Governor's budget did not include the spending plan for the remaining HAVA funds previously approved by the legislature in April 2005. The DOF approved an interim HAVA spending plan from the Secretary of State on January 27, 2006. Based on concerns raised by the LAO, the Joint Legislative Budget Committee rejected this spending plan on March 1, 2006, and requested the Secretary of State and DOF revise the plan to address their concerns.

FINANCE LETTER AND REVISED EXPENDITURE PLAN
On April 18, 2006, the Administration submitted a Spring Finance Letter proposing $5.537 million in new budget year expenditures. Accompanying the Finance Letter is a revised expenditure plan for the $364 million in federal funds. This new plan (the April 2006 HAVA plan) would replace the HAVA expenditure plan approved by the Administration and Legislature in April 2005.

The new plan includes initial costs for the new statewide database ($2.1 million), the interim voter database ($344,000), redirected staff for database activities ($249,000), poll monitoring ($65,000), parallel monitoring ($342,000), voting system guidelines ($150,000), and voter education materials ($500,000). Additionally, the request includes reappropriation requests for $46 million in HAVA funds. The reappropriation will fund HAVA activities previously approved by the Legislature but behind schedule.

The plan components and total proposed spending amounts are:

- Punchcard Replacement ($57,322,706). The Secretary of State has received $57 million to meet a HAVA requirement that all punch card voting machines and voting systems be replaced by the first federal election of 2006 (June 6, 2006, for most counties). There are no expenditures for this activity in the budget year.

- Registration Application Requirements ($590,000). The Secretary of State proposes to spend $590,000 in the current year on voter registration cards. The Secretary of State will print 10,000,000 new registration cards this year and take non-compliant and outdated voter registration cards out of circulation. This expenditure represents a reduction of $521,000, relative to the April 2005 plan. The Secretary of State reports that the additional cards will no longer needed.

- Election Assistance for Individuals with Disabilities Grants ($3,345,629). These noncompetitive grants are allotted to counties and administered by the Department of Health and Human Services. These funds are intended to improve accessibility and participation in elections by persons with disabilities.

- Accessibility, Accountability, and Accessible, Voter-Verifiable Paper Audit Trail (AVVPAT) ($195,000,000). Federal HAVA section 301 requires an AVVPAT, notification of over votes (when a voter selects more candidates than permitted), and other measures to improve accountability in elections. These funds will be administered by the Secretary of State to counties and will involve the Secretary of State certifying all voting systems for use and ensuring compliance by counties with HAVA requirements.

- Poll Monitoring ($130,000). The Secretary of State proposes $65,000 in the current year and budget year to fund staff travel, housing, and incidentals, for three days during election periods. This funding request is a discretionary activity not explicitly directed in the HAVA legislation.

- Parallel Monitoring ($897,000). The Secretary of State proposes expenditures of $342,000 in the budget year for contract services for development of testing methodologies, testing, and video services associated with parallel monitoring of election systems. This testing process is intended to supplement the current logic and accuracy testing process that occurs *before* a system is certified.

- Statewide Database (VoteCal) and Interim Solution of Existing Database (CalVoter) ($74,230,976). The Secretary of State proposes expenditures of $2.7 million in 2006-07 for a multiyear project to establish a statewide voter database and implement an interim statewide voter database. Section 303 of HAVA requires that states set up and maintain a computerized statewide voter registration list containing the name and registration information of every legally registered voter in the state. The Secretary of State will spend $344,000 in the budget year to establish and operate the "interim solution," a series of technology upgrades and process changes necessary to attain interim compliance with HAVA database requirements.

- Adherence to Voluntary Voting System's Guidelines and Processes ($200,000). The Secretary of State proposes expenditures of $150,000 in the budget year for activities related to implementing Voluntary Voting System Guidelines recently issued by the federal Election Assistance Commission and adopting other regulations pursuant to the new guidelines.

- Voter Education Development and Dissemination ($800,000). The Secretary of State proposes expenditures of $500,000 in the budget year for voter education activities to include brochures and other printed material, support for community groups involved with voter outreach, staff outreach, and Voter Bill of Rights costs.

- Administration ($7,011,000). The Secretary of State proposes expenditures of $1.7 million in the budget year to fund a total of 10 positions for work associated with administering HAVA funds. Budget year expenditures will be documented via time sheets and billed to federal HAVA funds, creating an equal General Fund savings to be captured at the end of the budget year.

- Reserve Fund ($7.6 million). The Secretary of State's April 2006 HAVA plan includes a reserve fund of $7.6 million for unanticipated costs, including the VoteCal database project.

The following activities were eliminated from the April 2005 HAVA plan:

- Federal Auditing Requirements (-$1.5 million). The Secretary of State asserts that these funds are not specifically needed, given the HAVA auditing activities already conducted by the Bureau of State Audits, federal auditors, and the Secretary of State. If future problems at the county level warrant a new state audit, the Secretary of State will request additional funding.

- Source Code Review (-$1.2 million). The Secretary of State's April 2006 HAVA plan does not include funding for review of voting system's source code, peripheral devices such as access card encoders, precinct-based scanners and central vote tabulating devices. The Secretary of State reports that federal testing labs are responsible for this activity and that other states will perform additional systems testing, the results to which California will have access. The Secretary of State believes that independent testing will be needed only on a very limited basis and in those cases will be paid for by the vendor, who will contribute to an escrow fund for this purpose.

- County Training Grants (-$9.5 million). The Secretary of State proposes the removal of all funding for voter education and training of local officials and poll workers. The department has determined this to be a discretionary HAVA activity. Some of the voter education and training will be funded out of the $195 million for accessibility, accountability, and AVVPAT activities, identified above.

Staff Comments:

SOURCE CODE REVIEW
Source code review has been funded in prior versions of the HAVA plan on the basis that this was an important activity that conformed to the Voting Systems Security Act of 2004 (SB 1376, Chapter 813, Statutes of 2004), which provided the Secretary of State authority to access to ballot tally source codes and take other steps to ensure elections are conducted appropriately.

The absence of funding for source code review raises significant concerns regarding vulnerabilities of our voting systems. While the federal government may be conducting tests of voting systems, the results of federal testing are confidential between them and the vendor. The state is only told whether a system passed or failed.

The Secretary of State has explained that finding independent contractors for this service can be difficult. Notwithstanding that difficulty, the Secretary of State has located contractors in the past, in particular with source code review of Diebold systems.

Certification is an ongoing process and funding for state testing must be available. New systems are still being proposed—particularly those intended to satisfy HAVA's disabled voter access requirements—and existing systems are regularly modified, a process that necessitates recertification. The Secretary of State should commit sufficient source code review resources to make this happen.

There is currently $40,000 in the escrow account established for source code review. The addition of $760,000 for this purpose will fully fund source code review in the budget year.

EXPENDITURE AUTHORITY
The LAO has raised concerns with the proposed budget bill changes and recommended the changes below. These amendments would reject specific reappropriations from the Budget Act of 2004 that were proposed by the Department of Finance and instead specify amounts to be spent in the budget year for state operations purposes.

> *0890-001-0890--For support of Secretary of State, for payment to Item 0890-001-0001, payable from the Federal Trust Fund for the implementation of the Help America Vote Act. . .~~1,745,000~~ $6,297,023*
> *Provisions:*
> *1. Funds shall be expended for the purposes approved in the April 11, 2006 Help America Vote Act spending plan. The amounts spent on each activity shall not exceed the maximums specified in the spending plan. In addition, that spending plan is amended to include $760,000 for source code review in 2006-07, as described in the March 11, 2005, expenditure plan and consistent with Chapter 813, Statutes of 2004..*
> *2. Notwithstanding any other provision of law, any funds not needed for an activity authorized in the spending plan shall not be redirected to other activities and are not authorized for expenditure.*
> *3. The Secretary of State shall forward to the Chairperson of the Joint Legislative Budget Committee copies of quarterly reports sent to the Department of Finance. The quarterly reports shall provide, at a minimum, the level of expenditures by scheduled activity.*

4. The Department of Finance may authorize an increase in the appropriation of this item, up to the total amount of the program reserve. Any such approval must be accompanied by the approval of an amended spending plan submitted by the Secretary of State providing detailed justification for the increased expenses. No approval of an augmentation or spending plan amendment shall be effective sooner than 30 days following the transmittal of the approval to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.
5. Notwithstanding any other provision of law, any primary vendor contract for the development of a new statewide voter registration database shall be subject to the notification and other requirements under Section 11.00 of this act. The validity of any such contract shall be contingent upon the appropriation of funding in future budget acts.

0890-495, Reversion, Secretary of State. As of July 1, 2006, all unencumbered funds from the following appropriations shall revert to the Federal Trust Fund for future use to implement the Help America Vote Act:
(1) Item 0890-001-0890, Budget Act of 2004 (Ch. 208, Stats 2004)
(2) Item 0890-101-0890, Budget Act of 2004 (Ch. 208, Stats 2004)
(3) Item 0890-490, Budget Act of 2005 (Ch. 38, Stats 2005)

Staff Recommendations:
1. ADD $760,000 (federal funds) to carry out source code review as described in the March 11, 2005, HAVA plan.

2. ADOPT the LAO-proposed budget bill language.

VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. The Governor's budget funds 5,160.4 positions (including 32.5 new positions) and expenditures of $662.4 million ($499.2 million General Fund).

VOTE-ONLY ISSUE

Finance Letter: California Child Support Automation System (CCSAS) State Disbursement Unit Increase for Reimbursements
The Administration requests that the FTB main budget item, 1730-001-0001, be amended to increase reimbursements by $256,000 ($87,000 General Fund, $169,000 Federal Trust Fund) to enable the Franchise Tax Board to execute a contract related to the CCSAS Project. Specifically, these reimbursements would be used to enter child support wage withholding information in the Child Support Enforcement system for customers who do not receive public assistance and have not requested enforcement services of the state.

VOTE on Vote-Only Issue:

DISCUSSION ISSUES

1. Tax Credit, Deduction, Exclusion, and Exemption Reporting

OVERVIEW
Credits, deductions, exclusions, exemptions (also known as tax expenditures) are breaks given to certain business entities or groups of people with the assumption that larger societal or economic benefits will be achieved. Regular and ongoing review and evaluations of credits, deductions, exclusions, and exemptions could make the state's tax system more efficient and effective—both at achieving economic and social goals and raising revenue.

California's credits, deductions, exclusions, and exemptions encourage behavior among a broad range of entities, from rice straw growers to renters and students to stock owners. These tax credits may be particular to California or they may also be "conforming" credits, deductions, exclusions, and exemptions that extend federal credits, deductions, exclusions, and exemptions to the state level (e.g., the student loan interest deduction). They may be targeted to relieve undue fiscal stress from one group of people or incentives a particular behavior for another.

The most common concerns arising from the use of credits, deductions, exclusions, exemptions are that they may necessitate an increase in tax rates or a cut in expenditures, complicate the tax code, induce undesirable behavior, reduce policy flexibility, or provide windfalls to targeted groups who no longer merit the benefit. Alternatives to tax expenditure programs include reducing general tax rates, mandating a program, direct government regulations, and direct expenditures.[1]

REPORTING

The proliferation of credits, deductions, exclusions, and exemptions in the tax code, combined with dynamic nature of the state's economy, underline the need for sound analysis of the efficacy of tax expenditures.

Tax expenditures reflect incentives for a certain business, industry or behavior at a certain point in time and may become less valuable overtime, leading to a significant tax incentive for a specific entity with little economic impact. In addition, they can complicate the tax code by subsidizing grant like programs and ultimately reduce policy flexibility, hindering the Legislature and Administration from taking corrective action or simplifying tax code. By their very nature, tax expenditures can increase the general tax rate necessary to fund the operations of the state. As they grow, the state increases revenue volatility by tightening its tax base.

Current reporting on credits, deductions, exclusions, and exemptions is provided by the BOE, FTB, and DOF. The BOE prepares a *Sales and Use Taxes: Exemptions and Exclusions* report that provides a brief description of sales and use tax credits, deductions, exclusions, and exemptions and an estimate of revenue lost, if readily available. The BOE does not have resources to estimate revenue loss for all sales and use tax credits, deductions, exclusions, and exemptions. The FTB periodically prepares a *California Income Tax Expenditures Compendium of Individual Provisions*, which provides a more detailed description of the personal income and corporation credits, deductions, exclusions, and exemptions with revenue known revenue losses. Known revenue losses in FTB's 2005 report were based on 2001 data. DOF has a statutory requirement to report on credits, deductions, exclusions, and exemptions as specified in Government Code Section 13305:

> *13305. The department shall provide an annual report to the Legislature on tax expenditures. The report shall include each of the following:*
> *(a) A comprehensive list of tax expenditures.*
> *(b) Additional detail on individual categories of tax expenditures.*
> *(c) Historical information on the enactment and repeal of tax expenditures.*

That latest report from DOF (2005-06) identifies annual state revenue losses of approximately $25.3 billion from credits, deductions, exclusions, and exemptions. This includes:

- Personal Income Tax: $21 billion
- Sales and Use Tax: $270 million
- Corporation Tax: $4 billion

Additionally, the credits, deductions, exclusions, and exemptions for property tax and for the local share of sales and use tax are estimated to cost $7 billion annually. These credits, deductions, exclusions, and exemptions matter to the state because they create a fiscal cost to the state in terms of backfilling Prop 98 funding.

[1] Franchise Tax Board, *California Income Tax Expenditures: Compendium of Individual Provisions,* 2005.

Altogether, 2005-06 revenue losses from credits, deductions, exclusions, and exemptions were approximately $32 billion.

Recognizing the inconsistent reporting, as well as the many billions in revenue associated with these programs, the Legislature should consider developing greater attention to credits, deductions, exclusions, and exemptions, through the following three objectives: (1) understanding their intentions and implications, (2) gaining better access to information, and (3) revising and enhancing reporting. The following measures would pursue those three goals:

Objective 1: Understanding the intentions and implications of tax expenditures

This objective will be met through supplemental report language exploring the policy basis, intent, and practical success of several tax expenditures.

> ***Tax Expenditure Program Reporting.*** *The Legislative Analyst's Office (LAO) shall report to the Chair of the Senate Committee on Revenue and Taxation, the Chair of the Assembly Committee on Revenue and Taxation, and the Chair of the Joint Legislative Budget Committee no later than March 15, 2007, and October 1, 2007, regarding tax expenditure programs (TEPs). The report shall provide information selected individual TEPs such as credits, deductions, and other special tax provisions, and be based, in part, on data provided by the Board of Equalization, Employment Development Department, Franchise Tax Board, and other applicable state agencies, as requested by the LAO. The report shall also provide information, when available, on all newly enacted credits, deductions, exclusions, and exemptions. The number and nature of the individual TEPs reviewed in each report shall be determined by the LAO, taking account of workload considerations and in consultation with the Revenue and Taxation Committee of each house of the Legislature. To the extent possible, the reports shall, for each TEP involved: (a) describe the TEP; (b) discuss the program's rationale or objective; (c) identify the statutory, constitutional, or other authority for the program; (d) identify the program's cost in terms of forgone revenues, (e) describe the program's distributional impact on taxpayers by income, gross receipts, or other suitable measure; (f) assess the program's effectiveness and cost-efficiency in meeting its original intent; (g) evaluate the program's impact on taxpayer behavior; and (h) provide recommendations for repealing, modifying, establishing a sunset, or continuing indefinitely, each tax expenditure,. If no clear statutory objective exists, the report shall include suggested legislative changes to establish an objective for the tax expenditure program.*

Objective 2: Improving oversight of existing tax expenditure programs

This objective will be met through joint policy or budget hearings held during the interim period to review the tax expenditures analyzed by the LAO. These hearings would cover the findings from the SRL described above and also include:

1. BOE and FTB testimony on the rationale for tax expenditures that the LAO suggests may no longer fulfill their original intended purpose.
2. Suggested alternative policy measures to achieve the statutory objective of the tax expenditure (if one exists) or the identification of a policy objective for the tax expenditure.
3. Metrics for meeting the statutory objective of the tax expenditures examined by the LAO.

Objective 3. Revising and enhancing reporting

This objective will be met by revising the existing Government Code 13305 reporting requirements to include:

1. A reporting date of February 15 each year.
2. Limit the reporting to tax expenditures of $5 million or more.
3. Statutory authority for each credit, deduction, exclusion, and exemption.
4. Description or restatement of the Legislative intent for each expenditure (if specified in legislation).
5. Sunset date, if applicable.
6. A brief description of the beneficiaries of the credit, deduction, exclusion, or exemption.
7. Estimate or range of estimates for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years. For SUT, this would include partial year exemptions and all other tax expenditures where the BOE as obtained information.
8. For PIT tax expenditures, the number of taxpayers affected and returns filed (as applicable) for the most recent tax year for which full year data are available.
9. For CT and SUT tax expenditures, the number of returns filed or business entities affected (as applicable) for the most recent tax year for which full year data are available.

Tax expenditures should also be evaluated during the budget enactment process. This comparison will facilitate a more comprehensive assessment in order to identify wasteful, ineffective, or outdated tax programs.

Staff Recommendation: ADOPT Objectives 1 (Supplemental Report Language) and 3 (trailer bill language implementing Objective 3).

VOTE:

2. Finance Letter: California Child Support Automation System (CCSAS) Augmentation Language

The Administration requests that budget bill language be added to FTB main budget item 1730-001-0001 to authorize the Director of Finance to approve any augmentation for unanticipated CCSAS project expenses that are deemed necessary to meet federal certification requirements or immediately necessary for system functionality. All other CCSAS augmentations would be subject to standard 30-day legislative review. This language will provide a mechanism to address unanticipated costs associated with the CCSAS project and to accommodate very short project timelines.

Staff Comment: The language provides that "if the Director of Finance deems that the augmentation is in the critical path to meet federal certification requirements and therefore necessitates immediate action or immediately necessary for system functionality, the Director may approve the augmentation. Any changes for these purposes would be excluded from the reporting requirements of Section 11.00." In such a case, written notification would be required to the Legislature within 10 days *after* Finance approval of the contract. If those conditions are not met, project augmentations would be authorized after a 30-day advance notice to the Legislature. Language is also requested to allow $132 million in federal funds in the 2006-07 budget to be available for expenditure through 2007-08.

The LAO has also expressed concern that the Budget Bill Language would limit Legislative authority. This request represents an unusual and not apparently necessary delegation of project authority to the Administration. A prudent alternative would be to amend the budget bill language to (1) ensure Legislative oversight prior to mid-year spending increases, and (2) limit the amount of funding and time period for mid-year increases.

Senate Subcommittee #3 has already acted on March 27, 2006, to amend the budget bill language to make those changes (3-0 vote).

Staff Recommendation: AMEND the budget bill language for Item 1730-001-0001 to (1) ensure Legislative oversight prior to mid-year spending increases, and (2) limit the amount of funding and time period for mid-year increases.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and centralized support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the state departments' procurement of materials, communications, transportation, printing, and security.
The Governor's budget funds 3638.8 positions (including 12 new positions) and expenditures of $1.05 billion.

VOTE ONLY ISSUES

A. Finance Letter: Centralized Printing and Mail Services for the Statewide Child Support System
The Department of General Services requests $4.4 million in 2006-07, $6.5 million in 2007-08, and $9.4 million in 2008-09 to carry out printing and mail services for the Department of Child Support Services. A printing and mailing service provider is needed to comply with federal directives on collection of child support payments and prevent federal penalties due to noncompliance. At full implementation, the department expects to print over 22 million pages per month. The proposed augmentation will enable DGS to upgrade its existing printing capabilities and improve service to state and non-state clients.

B. Finance Letter: Inspection Verification Services at Gambling Facilities
The Department of General Services requests $50,000 from the Indian Gaming Special Distribution Fund and a redirection of $40,000 from the Architectural Revolving Fund for construction and inspection verification services at tribal gaming facilities. DGS asserts that gambling compacts enacted in 1999 and 2003 between the state and tribes compel them to conduct construction inspection verifications services. DGS will redirect 0.3 personnel years from Department of General Services Real Estate Services Division to this activity.
The following budget bill language would authorize the requested activity:

> *1760-001-0367—For support of the Department of General Services, for payment to Item 1760-001-0666, payable from the Indian Gaming Special Distribution Fund……..$50,000.*

C. Finance Letter: Prison Construction Inspection Staffing for San Quentin Condemned Inmate Complex
The Department of General Services requests to reduce staff by 9.4 personnel years and $1.3 million (Architectural Revolving Fund) in 2006-07 to reflect delays in construction of the San Quentin Condemned Inmate Complex.

D. Budget Change Proposal: State Relocatable Classroom Program
The Department of General Services requests an appropriation of $74,000 from the State School Building Fund and one position to implement a phase-out of the state's relocatable classrooms. The proposal also includes a request to shift the funding source for this activity from bond funds to the State School Building Aid Fund. The Department has determined that obtaining a relocatable classroom lease from private industry are lower than the costs of rehabilitating the existing classrooms.

VOTE ON VOTE-ONLY ISSUES A THROUGH D:

DISCUSSION ISSUES

1. BCP: Building Security Augmentation at State Buildings
At the April 6, 2006, hearing, the Subcommittee considered an augmentation to the Department of General Services budget for increased security costs at five state buildings. These additional expenses were based on reduced service commitments by the CHP at the Ronald Reagan building and other minor cost increases at four other state buildings. DGS will fund these security augmentations through an assessment on building tenants.

The state has no standard security requirement for its buildings: however, the California Highway Patrol may provide a security assessment and recommendation. Departments ascertain by themselves what the best level of building security is for their facility, or, in buildings with multiple tenants, all tenants collectively decide to increase their facilities needs. DGS then prepares a cost estimate and presents it to the tenants.

Requests for security augmentations since 9/11 have occurred on a piecemeal basis and there is neither a minimum, nor a maximum, level of expenditures that a department may devote to building security. Security enhancements can be very expensive. It has been estimated that outfitting all state-owned buildings with x-ray scanners would cost between $40 and $50 million. To the extent that departments do enhance their building security, they either absorb the cost or request an augmentation.

The following budget bill language would require the DGS to survey departments on their pre and post-9/11 security expenditures and identify key cost drivers and expenditure trends over that period.

> *The Department of General Services shall collect information from all state departments in the Executive Branch on all state-owned and leased buildings (office space) with a minimum 50,000 square feet to determine the nature and level of security expenditures for fiscal years 2000-01 through 2005-06. Information collected shall include, for each facility meeting the above criteria: (1) annual expenditures on facility security, (2) annual expenditures on non-state security personnel, (3) identification of any security-related budget augmentation requested during that period, (4) indication of whether a California Highway Patrol security assessment was performed on the facility, (5) identification and cost of any building security-related equipment purchased costing more than $5000 during that period, (6) facility location, (7) description of programmatic activities performed at the facility, and (8) a narrative explanation for increased costs during that period. The Department shall provide this information to the Department of Finance, the Legislative Analyst's Office, and the Budget Committees of the Legislature no later than March 15, 2007.*

Staff Recommendation: ADOPT the budget bill language in the Department of General Services budget.

VOTE:

2. Strategic Sourcing Update
Strategic Sourcing is a joint partnership effort to leverage the State's buying power to facilitate bulk purchasing. The Administration's Strategic Sourcing concept involves analyzing what the state is buying, market conditions, and potential suppliers, and then leveraging purchases for the best deal.

One way in which DGS has recognized savings was through the establishment of State-defined standard for technology, also known as common configurations. The state's Chief Information Officer Council selected these configurations, a first in the state's history of IT procurement. The common configurations are expected to simplify technical support, streamline processes, and create greater interoperability.

Control Section 33.50 of the 2005 Budget Act provides the current statewide authority for the Administration's Strategic Sourcing initiative. That control section states the following:

> *SEC. 33.50. Notwithstanding any other provision of law, the Department of Finance is authorized to periodically reduce amounts in items of appropriation in this act for the 2005-06 fiscal year to reflect savings resulting from California's Procurement Initiative for the 21st Century. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee at least 30 days prior to reducing any item of appropriation. The notice shall include, but is not limited to: (a) identifying which department received the savings; (b) identifying when and how the savings were achieved; (c) identifying the types of goods and services as to which savings were achieved; and (d) describing the methodology used to calculate the savings.*

This current year budget language is not included in the 2006-07 budget bill and no current year savings have been identified by the Department of Finance.

Staff Comments:
UNSUBSTANTIATED SAVINGS
In the 2005-06 Governor's Budget, the Administration assumed that it could generate $96 million in savings in 2005-06. This target was later eliminated in the 2005 Budget Act, in part because the Administration recognized that any savings realized could be better used by departments to meet their $100 million in unallocated reductions target for the current year.

According to DGS, expected savings from Strategic Sourcing are estimated at $171 million over the next three years. Savings are expected to occur across multiple categories, including office supplies, computers, servers, copiers, and pharmaceutical purchases. However, these savings are hard to confirm, largely because of the difficulty in verifying that identified Strategic Sourcing savings might not have otherwise occurred.

The perspective that Strategic Sourcing savings could be used by departments to meet their $200 million in unallocated reductions for the budget year has again been suggested by the Administration. Were it possible to verify their existence, then certainly identifiable savings from contracts would be a more straightforward way to recognize departmental savings, as opposed to the current blanket $200 million unallocated reduction.

While savings have been minimal and difficult to verify, the intent of the current year budget bill language remains valid and should be preserved as a means to identify strategic sourcing savings, in particular as they offset unallocated reductions.

A better means to apprise the Legislature of Strategic Sourcing savings would be to have DOF report to the Legislature on amounts paid to the CGI-AMS contract and reduce appropriations as contract payments are made. According to the contract, DGS must pay CGI-AMS approximately 10.5 percent of the realized savings.

The current contract with the Strategic Sourcing vendor runs through June of 2007. The department has not decided whether to extend the contract or to rely on staff to manage procurement contracts themselves. Given the lack of a proven and identifiable savings figure, the Legislature should carefully evaluate any attempt to extend a Strategic Sourcing contract.

The following budget bill language would tie these payments to reductions in appropriations and allow the Legislature to review the contract for Strategic Sourcing, if continued.

> *SEC. 33.50.*
> *(a) Notwithstanding any other provision of law, the Department of Finance may periodically reduce items of appropriation in this act for the 2006-07 fiscal year for savings tied to California's Procurement Initiative for the 21st Century. The Director of Finance shall report quarterly to the Chairperson of the Joint Legislative Budget Committee on payments made to the contractor hired for the Procurement Initiative for the 21st Century and at least 30 days prior to reducing any item of appropriation. The quarterly report and notice on reducing appropriations shall include, but is not limited to: (a) identifying which department received the savings; (b) identifying when and how the savings were achieved; (c) identifying the types of goods and services as to which savings were achieved; and (d) describing the methodology used to calculate the savings.*
>
> *(b) Any joint partnership contracts in support of California's Procurement Initiative for the 21st Century shall be executed no sooner than 30 days after written notification has been provided to the Joint Legislative Budget Committee.*

SINGLE SOURCE SUSCEPTIBILITIES

Strategic Sourcing and common configurations raise important questions regarding the state's ongoing efforts to avoid an Oracle-type procurement situation. In 2002, the state had made a major investment in Oracle software and hardware and in doing so forced itself into buying only Oracle-compatible software and hardware for its IT needs. With no other vendors available, the state faced extremely high costs for products without competitor.

To better understand the state's single-source susceptibilities, the Subcommittee should ask the following questions:

State's Chief Information Officer/Department of General Services:

1. How are departments overseen or advised to prevent an Oracle-type situation from happening?
2. What is considered the minimum number of bids (if any) for all IT procurements?
3. What is the state's overall IT procurement plan and how is it developed?
4. What is the role of the state's CIO?
5. What does DGS or the CIO do to ensure that systems proposed by different agencies that need to communicate with each other are capable of doing so?
6. Does DGS or the CIO coordinate each proposal to help the state realize greater savings by packaging bids?

Department of Finance:

1. What is DOF's role in overseeing IT procurements of all sizes and types?
2. How has the "sole-source trap" been addressed since the Oracle scandal?
3. What steps has DOF taken to prevent an Oracle-type situation from developing again?

Staff Recommendation:

1. Direct the Department of General Services and Department of Finance to respond to the single source procurement questions raised above.

2. Adopt staff's Control Section 33.50 (above).

VOTE:

8620 Fair Political Practices Commission

The Fair Political Practices Commission has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974. The objectives of the Political Reform Act are to ensure that election campaign expenditure data is fully and accurately disclosed so that the voters may be fully informed and to inhibit improper financial practices, and regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.

The Governor's budget proposes 73.4 positions (including 14 new positions) and expenditures of $7.002 million in 2006-07. Between 2004-05 and 2006-07, FPPC staffing is expected to grow by 30 percent, from 56.8 positions to 73.4 positions.

Staffing Augmentation for Increased Workload

The Governor's budget includes $700,000 General Fund and 12.2 positions to meet workload requirements stemming from new Legislative mandates and the Political Reform Act. Caseloads and backlogs have increased considerably in recent years: in the enforcement division, new cases nearly doubled from 892 in 2003 to 1751 in 2004. The requested positions will be assigned to enforcement, investigations, legal counsel, legal support, and administrative support. Revenues in the range of $90,000 to $120,000 are expected from enforcement actions.

Staff Comment: The BCP request did not include an operating expense (OE) complement. Without this funding, the department would have to either absorb or request at a later date the communications, computer equipment, data support, furniture, and other items normally accompanying new positions. At staff request, the FPPC modified their request to recognize an appropriate level of OE. The same number of positions are requested, however, the position classifications have been adjusted slightly to recognize $43,000 in OE.

At the April 26, 2006, hearing, this issue was left open to explore the appropriateness of this level of augmentation.

Staff Recommendation: AMEND the proposal to recognize the $43,000 OE complement. (This amendment will result in no change to overall cost or number of positions.)

VOTE:

8855 Bureau of State Audits

The Bureau of State Audits promotes the efficient and effective management of public funds and programs by providing independent, objective, accurate, and timely evaluations of state and local governmental activities to citizens and government. By performing financial, performance, and investigative audits, and by performing other special studies, the State Auditor provides the Legislature, the Governor, the Milton Marks Commission on California State Government Organization and Economy ("Little Hoover Commission"), and the citizens of the state with objective information about the state's financial condition and the performance of the state's many agencies and programs.

The Governor's budget proposes 139.5 positions and expenditures of $13.019 million in 2006-07.

1. Staffing and Audits Augmentation
The Bureau of State Audits (BSA) requests $1.2 million General Fund in 2006-07 and 2007-08 to address recruitment and retention challenges and to contract out portions of the annual federal compliance audit for at least two years (an optional third year will be considered).

The BSA has encountered significant staffing losses recently—including the loss of nine of 18 audit supervisors over the last year—and requests a salary realignment to better retain staff. Without experienced staff, the BSA's ability to meet a growing Joint Legislative Audit Committee-directed workload is diminished.

Many of the supervisory staff and several other lower-level staff have moved to other public agencies and the private sector where pay and benefits are comparatively better. To address this problem, the State Auditor has proposed and received approval from the State Personnel Board to realign auditor classifications and adjust salaries and benefits to align with other comparable state agencies.

At the same time, the BSA has encountered a spike in the number of large audits requested by the JLAC. Without additional staffing, the BSA cannot respond to all requests. The BSA proposes to respond to the spike in the number of large audits requested by the JLAC by contracting out the portions of the annual federal compliance audit, at an annual cost of $2.5 million for two years. (A third year will be considered in 2007-08.) The BSA will redirect from prior year savings and shift money from the State Audit Fund where prudent, but some General Fund support is also needed.

Staff Recommendation: APPROVE the $1.2 million General Fund augmentation for two years.

VOTE:

8860 Department of Finance

By statute, the Director of Finance serves as the Governor's chief fiscal policy advisor with emphasis on the financial integrity of the state and maintenance of a fiscally sound and responsible Administration. The objectives of the Department of Finance are to: (1) prepare, present, and support the annual financial plan for the state; (2) assure responsible and responsive state resource allocation within resources available; (3) foster efficient and effective state structure, processes, programs, and performance; and (4) ensure integrity in state fiscal databases and systems.

Vote-Only Budget Issues:

A. Reappropriation of Budget Information System (BIS) project funding (BCP #1)

The administration requests to expend the balance of the $1.7 million appropriated in the 2005 Budget Act through June 30, 2007. This action is requested for the purpose of completing the chart of accounts (COA) and procurement acquisition assistance activities for the BIS. This action is necessary because under advisement from the Department of General Services, the procurement strategy has changed, resulting in extension of timelines for completion of this portion of the project.

Detail: The purpose of the BIS is to streamline budget processes and develop a year-round integrated budget system to replace the multiple legacy budget systems. The State currently lacks a single integrated system for development of the annual budget and for other financial functions, such as accounting and procurement. Existing systems are more than 25 years old and require significant staff support to maintain. These systems, used today to produce the Governor's Budget and other key budget documents, were first developed in the 1970s to capture the incremental changes to the budget.

In order to ensure compatibility between the BIS and any other departmental or statewide management systems that may be developed, the DOF would like to develop a universal "chart of accounts" to be used by all such systems. Future funding beyond this request will be contingent upon approval of a Budget Change Proposal for 2007-08.

B. Trailer Bill Language for Changes to the Fiscal Integrity and State Managers' Accountability Act (FISMA)

Description: The DOF is proposing to amend the Government Code requiring agencies to: (1) conduct an internal review and submit a report on <u>a biennial basis</u> but no later than December 31st of each odd-numbered fiscal year pursuant to the Fiscal Managers Accountability Act (FISMA); and (2) <u>require a corrective action plan be provided to Department of Finance within 30 days after the report is submitted, with updates due every six months until corrective actions have been completed.</u>

Background. Current law requires that the head of each agency prepare and submit a report on the adequacy of the agency's systems of internal accounting and administrative control by the December 31st of each odd-numbered fiscal year. FISMA, Government Code 13400–407, requires each state agency to maintain effective systems of internal accounting and administrative controls. Furthermore, FISMA defines internal controls and requires agencies to evaluate controls continuously. When weaknesses are detected, they are to be corrected promptly. To ensure FISMA compliance, agency heads must certify to the agency's internal controls biennially. The act also discusses the Department of Finance's (DOF) responsibility for guiding agencies in their reviews and reporting. DOF requires all state entities to submit reports concluding on the adequacy of their organization's internal controls. The reports consist of a certification letter, internal control audit report(s) and management's response to the audit report(s). To help agencies fulfill FISMA requirements, DOF issues an audit guide for the evaluation of internal controls and, when necessary, issues audit memos to establish uniform policy and procedures.

Neither FISMA nor the State Administrative Manual (SAM) establishes enforcement responsibilities or sanctions. As a result, DOF has limited its monitoring and coordination to recording the state agencies which file their certification letters and audit reports. In the past, DOF performed more internal control audits of agencies without internal auditors. However, due to continuing budgetary constraints, DOF has refocused its efforts to emphasize reimbursement work and has discontinued many of its FISMA related audits unless requested and paid for by the agencies.

Staff Comment: According to DOF, the current requirement that the report be submitted in the odd-numbered fiscal year limits the timeframes to complete the reviews. The amendment allows more flexibility regarding when FISMA reviews can be conducted and reports submitted. In regards to the corrective action plans, FISMA states that state agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies. Currently there is no requirement that agencies submit corrective action plans or updates related to correction of material weaknesses to Department of Finance. As a result many of the internal control reports contain the same findings each reporting year. To ensure that agencies are implementing changes to correct material weaknesses, it is proposed to add a requirement for corrective action plans.

VOTE on Vote-Only Issues A and B:

DISUCUSSION ISSUES

ISSUE 1: Mandates Unit (BCP# 2)

Description: The Governor's budget requests 4.0 positions (3.8 personnel years) and an increase in reimbursement authority ($537,000) from Item 8885-295-0001 to establish a Mandates Unit with DOF to address and coordinate local government mandate activities and develop, examine, investigate / evaluate, and implement policies and procedures to be used to reform the reimbursable mandates process and create methods to conduct activities required of DOF. It is expected the efforts of this unit will ultimately result in providing timely and appropriate mandate costs estimates to the Legislature while such bills are being considered by the Legislature.

Background: The DOF is required to perform a number of activities related to mandates, including:

- ✓ Preparation of a cost estimate of a bill during the legislative process, if Legislative Counsel keys the bill as a mandate;
- ✓ Annually review and report on enacted legislation resulting in costs, revenue losses, or cost savings;
- ✓ Provide analyses on test claims including providing written recommendations and testifying at Commission on State Mandates (CSM) formal hearings, and participating in informal meetings and pre-hearing conferences;
- ✓ Provide oversight on activities required by the State Controller's Office (SCO) relating to mandate costs and payments;
- ✓ Identify in the Governor's Budget, mandates that are suspended or deferred;
- ✓ Develop and include in the Governor's Budget, the full payable amount not previously paid for all mandates for which the costs have been determined in a preceding fiscal year unless the costs were incurred prior to the 2004-05 fiscal year;
- ✓ Develop and include in the Governor's Budget, an amount to fund mandate costs incurred prior to the 2004-05 fiscal year not previously paid.

Currently, budget units at Finance are responsible for mandate analysis and determination activities. Typically such bills and test claims are assigned to the most closely related program area. For example, mental health mandates are assigned to Budget Staff responsible for the Department of Mental Health. Also, the responsibilities related to mandates for budget development are not assigned to a single coordinating unit. The mandate budget development activities are in addition to regular departmental program budget workload. The proposed mandate unit within Finance would be charged with identifying policy issues in the current mandate payment process, conducting analyses of the issues and proposing solutions. Finance also proposes to provide a greater level of direction over the State Controller's Office (SCO) activities to ensure reimbursement is provided in an efficient and prudent manner. Finance is not currently staffed to provide such oversight and direction.

Recommendation: Staff recommends approval of the request, but rather than funding from reimbursements out of the local assistance mandates claims item, it should be funded directly from the General Fund since any short /intermediate/long-term benefits of enhanced mandate analysis and review will accrue to the General Fund.

VOTE:

ISSUE 2: eBudget Presentation System Maintenance and Knowledge Transfer (BCP #3)

Description: The Governor's budget requests $135,000 in additional General Fund to support the ongoing maintenance, corrections and fixes of the eBudget presentation system. Of the funding requested, $104,000 is one-time for web design consulting services and $31,000 in ongoing funding for data processing and data center costs.

Background: Prior to January 2000, the Governor's budget and summary were only provided in print form. Since January 2000, in addition to hard bound copies, these documents have been made available on DOF's web sit in a portable data file (PDF) format. In January 2004, in an effort to reduce the publication costs, the Governor's budget was provided on CD-ROM rather than the traditional hard bound volume. In the Budget Act of 2004, the Legislature authorized through Control Section 4.45, a $750,000 transfer from the Department of General Services to the DOF for costs associated with producing the Governor's budget through electronic or other media and printed hard copies as necessary. In continued support of the web-based presentation, the Budget Act of 2005 provided 1.8 Personnel Years (PYs) and $484,000 General Fund for the evaluation, and continuing development and enhancement of the Governor's Budget Presentation System. In addition, the Legislature provided authority to continue the contract with a web development firm through the end of 2005-06 and increase the contract by $250,000.

Staff Recommendation: Approve the administration's request with additional clarifying language to Provision 4 to ensure that the Legislature be provided any subsequently proposed amendments or modifications to the Governor's proposed budget, typically prepared in April and May Revise, in hardcopy form.

VOTE:

ISSUE 3: Trailer Bill Language for Fiscal and Performance Oversight of Proposed Strategic Growth Plan

Description: The administration proposes to add trailer bill that would require the Director of Finance, as he or she deems necessary, do both of the following: (1) ensure that performance and outcome measures are developed for all programs and projects funded with bond issued to implement the Strategic Growth Plan (SGP); and (2) audit the programs and projects funded with bonds issued to implement the SGP. And no later than September 30 of each year, the Director shall prepare and submit to the Governor a report on the results of these audits for use in the budget process.

Background: In his State of the State address on January 5, the Governor presented an infrastructure proposal, known as the Strategic Growth Plan. The plan laid out the initial 10 years of a 20-year objective to focus on the state's infrastructure needs in the areas of transportation, K-12 and higher education, flood control and water supply, public safety, the courts, and other miscellaneous program areas. According to the Administration, phase one (2006-2014) of the plan projects more than $220 billion in infrastructure expenditures -- of this amount, $68 billion will be financed with General Obligation (GO) bonds.

Staff Comment:
The discussion on bonds whether through the SGP or Legislature has been moved to a conference committee on this subject matter, and any additionally required oversight should be dealt with in that committee.

It is not clear that existing state staff and working groups could not accomplish the same objectives as this proposal. In the 2005 Budget Act, the Legislature approved a DOF request of 3.0 positions (2.9 personnel years) to among other things, centralize the expertise for the ongoing bond oversight, increase monitoring, conduct departmental training, and fund retainer contracts with financial advisors and bond counsel.

Staff Recommendation: Reject the trailer bill language.

VOTE:

8885 Commission on State Mandates

The Commission on State Mandates is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. The Governor's budget funds 14 positions (with no new positions) and expenditures of $243.4 million.

The budget includes $241.6 million ($240 million General Fund) to local governments for mandate costs. That sum contains the following five components:

- Payment of $48 million for 35 mandates.
- Payment of $45.7 million for mandates still to be identified for payment in the budget year.
- Deferment of payment for the Peace Officers Procedural Bill of Rights Mandate, mandate estimated to cost $35 million in the budget year.
- An appropriation of $50 million for mental health services to special education students (the AB 3632 mandate) with the express intent that the mandate be converted to a categorical program.
- An appropriation of $98.1 million for the first year of a 15-year repayment cycle for past due state mandate claims.

Twenty-eight mandates are recommended for suspension in the budget year.

1. New Mandates Cost Calculation (LAO Issue)

Proposition 1A requires that the annual state budget include funding for the prior-year costs of new mandates (that is, those mandates recently approved by the commission). The administration has budgeted $45.7 million for these prior-year costs. At the time this analysis was prepared, the commission had adopted a statewide cost estimate for only one new noneducation mandate, totaling $142,000.

Our review also indicates that it would be advisable for the Legislature to enact legislation clarifying the state's procedures for including funds for new mandates in the annual state budget. Absent such legislation, Proposition 1A could be interpreted as requiring the state to include funds for a mandate approved on the very last day of the fiscal year. To give the Legislature and administration a reasonable amount of time to adjust the annual budget bill to include funding for new mandates, we recommend the Legislature specify in statute that funds to pay the statewide cost estimate of a new mandate adopted after March 31 would be included in the budget for the *subsequent* fiscal year.

> *Government Code § 17561.*
> *(c) (1) Except as specified in (2), for purposes of determining the state's payment obligation under Article XIII B, Section 6 (b) 1, a mandate "determined in a preceding fiscal year to be payable by the state" shall include all mandates for which the commission adopted a statewide cost estimate pursuant to Section 17600 of the Government Code during a previous fiscal year or that were identified as mandates by a predecessor agency to the*

commission, unless the mandate has been repealed or otherwise eliminated.
(2) If the commission adopts a statewide cost estimate for a mandate during the months of April, May, or June, the state's payment obligation under Article XIII B, Section 6 (b) shall commence one year later than specified under (1) above.

Staff Comment: At the March 23, 2006, hearing, the Subcommittee held this issue open to allow staff to determine if an additional month would be prudent (to February 28 or 29) in order to capture the cost of new mandates. An additional month is not necessary and would degrade the quality of estimates.

Staff Recommendation: ADOPT the proposed trailer bill language identified above**.**

VOTE:

2. More Information About Mandates in Budget
The LAO has noted that the 2006-07 Governor's Budget and 2006-07 Budget Bill provide less information than previous budget documents and treat K-12, community college, and non-education mandates inconsistently. The Governor's budget, for example, provides no mandate-specific information regarding noneducation mandates and little information regarding community college mandates. The administration's changes to the state's budget documents make it exceedingly difficult for the Legislature or local agencies to understand the administration's proposals or track the Legislature's decisions regarding mandates over time.

Staff Comment:
An obstacle to accurate reporting of past year mandate costs in the Governor's Budget (which would also allow better current year and budget year estimates) is the final claiming date for reimbursable costs.

Government Code Section 17560 generally prescribes that a local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year. For example, the final date to file claim costs for the 2004-05 fiscal year is January 15, 2006. This late date precludes past year actual amounts from being included in the Governor's Budget, released on January 10.

In order to provide more accurate and timelier cost information to the Legislature, the Subcommittee should shift the final mandate claiming date to three month's earlier. An October 15 deadline should allow enough time for the SCO's final auditing of claims and DOF to include actual past year numbers and more accurate current year and budget year estimates in the Governor's Budget.

Staff Recommendation: ADOPT trailer bill language shifting the final mandate claiming date from January 15 to October 15.

VOTE:

3. Clarification of Mandate Payment Period

Government Code Section 17617 specifies that past due non-education mandates shall be paid over a period of up to 15 years, beginning with the 2006-07 fiscal year. Recently, questions have been raised regarding this code section and the state's obligation to pay off mandate debt. To clarify the state's obligation, budget bill language is needed to ensure the appropriation in the Commission on State Mandates budget may be expended only to the extent authorized by the statutory scheme (i.e. for approved claims rather than court judgments), and subject to the statutory limit on the payment of interest.

Staff Comment: The following budget bill language, amended as shown below to provision 1 of 8885-299-0001 of the pending Budget Bill, would provide the necessary clarification.

> 1. Allocations of funds provided in this item to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. ~~Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.~~ *The funds appropriated by this item shall be allocated only for the payment of claims as required by Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code, which payment shall be made pursuant to Article 5 (commencing with Section 17615) of that chapter. Notwithstanding any other provision of law, interest shall be paid from funds appropriated by this item only to the extent, and in the amount, authorized by Section 17561.5 of the Government Code.*

Staff Recommendation: AMEND Item 8885-299-0001 as displayed above.

VOTE:

8940 MILITARY DEPARTMENT

The Military Department is responsible for the command, leadership and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard is to provide military service supporting this state and the nation. The three missions of the California National Guard are to provide: (1) mission ready forces to the federal government as directed by the President; (2) emergency public safety support to civil authorities as directed by the Governor; and (3) support to the community as approved by proper authority. In addition to the funding that flows through the State Treasury, the Military Department also receives federal funding directly from the Department of Defense.

The Governor's budget funds 685.9 positions (including 17 new positions) and $111.5 million in expenditures ($38.1 million General Fund, $62.0 federal funds, and $11.4 in other funds and reimbursements).

VOTE-ONLY ITEMS

A. Roseville Armory

The Department of the Military requests $2.525 million General Fund to implement the construction phase of the Roseville Expansion and Renovation Project. The federal government will contribute $881,000 to this phase of the project. The total anticipated project cost is $5.993 million, of which $3.052 million is General Fund and $2.941 million federal funds.

Provisional language is necessary to enable this transfer:

4. *Funding provided in Schedule (2.5) of this item will be matched by $881,000 federal funds. These funds do not flow through the Treasury of the State of California because they are paid by the Department of Defense directly to the US Army Corps of Engineers for the purpose of management and execution of these projects. Thus, the federal contribution to this project will not be reflected in the Budget Act.*

B. Reappropriation for Minor Capital Outlay Projects

The Department of the Military requests budget authority to reappropriate funding for the department's minor capital outlay projects (e.g. kitchen, latrine, and lighting upgrades) funded in the Budget Act of 2005. The Military Department utilizes the Army Corps of Engineers to design and manage these projects. Due to Hurricane Katrina some of these personnel have been diverted to Gulf states and project schedules have slipped.

Provisional language is necessary to enable this reappropriation:

8940-491—Reappropriation, Military Department. The balance of the appropriation provided in the following citation is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in that appropriation:

0001—General Fund

(1) Schedule (2) of Item 8940-301-0001, Budget Act of 2005 (Ch. 38, Stats. 2005) for 70.90.004-Minor Projects

Vote on Vote-Only Items A and B:

DISCUSSION ITEMS

1. Finance Letter: Second Youth Challenge Program
The Administration requests $3.9 million ($900,000 General Fund) and 17.8 positions in 2006-07, and $3.3 million ($1.4 million General Fund) and 29 positions in 2007-08 to establish a second Youth Challenge Program that will serve at-risk 16 – 18 year-olds who have dropped out of school, are unemployed, and meet other criteria. The Military Department received a one-time federal appropriation of $1.7 million to develop facilities to support a new 200 person complex. The federal government will contribute $1.9 million ongoing for this program.

The U.S. Congress established the Youth ChalleNGe program in 1992 to address a burgeoning problem with school drop-outs. The first Youth ChalleNGe Program was established in California in 1998 at Camp San Luis Obispo. That program currently accepts 300 students a year in two classes (150 per class), and graduates about 100 per class. (Students drop out for various reasons, including drug use, violation of camp rules, or voluntarily.) Student placement data shows that since inception, between 67 and 91 percent of program graduates have returned to school and/or gone into full-time employment.

The department currently turns away approximately 400 students annually from Camp San Luis Obispo due to insufficient class space. The new facility at Los Alamitos would alleviate some of the demand by accepting 200 students a year.

Staff Comment: At the April 26, 2006, hearing the Subcommittee requested information from the department regarding the geographic and socio-economic background of candidates, application process, and basis for this request coming through the budget process.

The department has clarified the urgency for requesting the establishment of the second Youth ChalleNGe program through the budget process. First, the existing program was reviewed and authorized through the budget process. Second, the availability of a federal match for this program (approximately three-to-one match in the first year), suggests the Legislature decide whether to expand the Youth ChalleNGe program during the budget process, before federal funds could potentially be lost or reallocated.

Staff Recommendation: APPROVE the Finance Letter.

VOTE:

9860 Capital Outlay Planning and Studies Funding (Discussion Issue)

This budget item provides funding to be allocated by the Department of Finance to state agencies to develop design and cost information for new projects.

A key capital outlay project appeal process has come under Legislative scrutiny this year as it relates to Government Code Section 13332 and reporting requirements for project scope changes.

1. Government Code Section 13332.11 requires that augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee (JLBC), or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine. While not apparently intentional, in some recent cases, this has not occurred and JLBC approval was not obtained beforehand.

2. The Administration has approved several project scope changes that appear to have been made to keep a proposed project augmentation below the 20 percent limit, above which Legislative action is required. It is not clear that the Administration's actions are consistent with statute or full disclosure to the Legislature.

Staff Recommendation: Request the Department of Finance respond to the two issues described above and suggest statutory changes that may be necessary to fully conform to existing requirements without unnecessarily impeding capital outlay projects.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Tom McClintock
Christine Kehoe

Wednesday, May 17, 2006
9:30 a.m.
Room 113

Consultants: Dave O'Toole, Danny Alvarez

"A" AGENDA

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Vote-Only Budget Items

ITEM	ISSUE	DESCRIPTION
Control Section 12.00	State Appropriations Limit	Control Section 12.00 establishes the amount of the State Appropriations Limit for the fiscal year of the budget. The LAO has proposed that trailer bill language be enacted to make a technical correction to Government Code Section 16418, which requires the Legislative Analyst and the Director of Finance to send a joint letter to the Controller telling him/her that there is enough room under the state's spending limit to transfer any year-end unencumbered funds into the special fund for economic uncertainties. The proposed technical correction eliminates a "double counting" problem with the calculation. The correction would not have any impact on the spending limit calculations themselves.
0110—Senate	State Appropriations Limit Adjustment	Adopt technical budget adjustment to decrease schedule (4) of this item by $39,000
0120—Assembly	State Appropriations Limit Adjustment	Adopt technical budget adjustment to decrease schedule (4) of this item by $53,000
1730—Franchise Tax Board	Federal Funds Adjustment for Reimbursements to the California Child Support Automation System (CCSAS) Project	The Administration requests that Franchise Tax Board federal funds reimbursement authority be increased by $43,000 to reflect an increase in federal funds available for the CCSAS project. This amount augments the increase in federal funds described in the next issue. The two augmentations were presented separately due to a timing difference in recognizing the availability of the funds.
1730—Franchise Tax Board	CCSAS: Business Partner Change Orders	The Administration requests that Franchise Tax Board federal funds reimbursement authority be decreased by $454,000 to reflect a reduction in the CCSAS Business Partner change order requests. This is a conforming action with a Department of Child Support Services Finance Letter.
1730—Franchise Tax Board	CCSAS: Data Capture Staffing	The Administration requests that Item 1730-001-0001 be revised by augmenting Franchise Tax Board (FTB) staff by 8.0 positions so that the FTB may perform data capture services for the Department of Child Support Services (DCSS). Position funding of $256,000 (reimbursements from DCSS) was approved by the Subcommittee on May 11, 2006.

1730—Franchise Tax Board	CCSAS: Child Support Transitional Arrears System Change	The Administration requests that Item 1730-001-0001 be increased by $1.02 million General Fund, and that federal funds reimbursement authority be increased $1.98 million, to facilitate system updates associated with tracking the date when child support payments are received from non-custodial parents. The following provisional language is related to this issue: *Provision X. Of the amount appropriated in this item, $3,000,000 shall be available for enhancements to the California Child Support Automation System project to enable the receipt and recording of child support transitional arrears payments. This funding shall not be expended until the Department of Finance approves the Advance Planning Document/Special Project Report and no sooner than 30 days after notification in writing of the necessity thereof, is provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house of the Legislature that considers appropriations, unless the Chairperson of the Joint Legislative Budget Committee, or his or her designee, imposes a lesser time.*
1760—Department of General Services	Capitol Security Equipment	The eight x-ray machines currently in use at the entrances to the Capitol building, LOB building and Capitol garage have realized their life expectancy due to age and heavy usage. The seven metal detectors throughout Capitol entrances face similar problems. The Department of General Services budget requires an augmentation of $472,693 to replace this equipment. Out of this amount, $427,670 will replace the x-ray machines and $45,023 will replace the metal detectors.

1760—Department of General Services	Fuel and Preventative Maintenance	The Department of General Services requests that Item 1760-001-0666 be increased by $1,461,000 to allow the Department of General Services to recover fuel costs and preventative maintenance services for 530 vehicles purchased in the current year for lease to the Department of Corrections and Rehabilitation, Adult Parole Operations.
1760—Department of General Services	Increased Security at the Elihu Harris Building	The Department of General Services requests that Item 1760-001-0666 be increased by $1,006,000 for increased security for the Elihu Harris Building in Oakland, California. This adjustment is requested pursuant to the CHP's site security assessment of the building. The Department of General Services also requests that Item 1760-002-0666 be decreased by $800,000 to reflect lower debt service costs for this building, and that Provision 1 of this item, and Item 1760-001-0666 be amended to reflect this change.
1955—Department of Technology Services (DTS)	Teale Data Center, Health and Human Services Data Center, and Telecommunications Division of the Department of General Services Consolidation Savings	The Administration requests that the DTS budget be reduced by $1,091,000 and 8.7 positions to reflect staff savings achieved as a result of Data Center Consolidation. The DTS now serves the common technology needs of state departments, improves and coordinates the use of technology, eliminates duplications, and brings about economies that could not otherwise be obtained. This reduction conforms to the first year of a four-year plan to achieve $45.6 million in consolidation savings.
9100—Tax Relief	Funding Adjustment for Senior Citizens' Property Tax Assistance and Senior Citizens' Renters' Tax Assistance Programs	The Administration requests that Item 9100-101-0001 be increased by $5,563,000 to reflect a decrease of $420,000 in the Senior Citizens' Property Tax Assistance Program and an increase of $5,983,000 in the Senior Citizens' Renters' Assistance Program. These changes are based on revised participation calculations from the Franchise Tax Board.
9100—Tax Relief	Increased Funding for the Senior Citizens' Property Tax Deferral Program	The Administration requests that Item 9100-101-0001 be increased by $2,100,000 to reflect the receipt of revised participation calculations for the Senior Citizens' Property Tax Deferral Program from the State Controller's Office.

VOTE ON VOTE-ONLY ITEMS:

<u>DISCUSSION ITEMS</u>

Control Section 3.45

The Governor's Budget includes a Control Section 3.45, intended to generate $58 million in savings through a cut to departmental budgets. Agency secretaries will be provided target reduction goals of one percent of salaries and wages costs, which will be achieved primarily through eliminating vacancies, but also through nonsalary reductions to staff benefits and operating expenses.

Staff Comment: There is no particular justfication for this type of unallocated reduction, as opposed to the unallocated reduction included in control section 4.05 (described below). The Governor's Budget includes growth of more than 2000 positions, with the April Finance Letters and May Revision Finance Letters adding hundreds more. If containment of position growth is sought by the Administration, a more deliberative approach is through negative budget change proposals.

In their *Analysis of the 2006-07 Budget Bill,* the LAO critiqued these types of unallocated reductions, noting that past authorities for reductions have not achieved their intended objectives, some savings were scored but not achieved, program impacts are usually unknown, and the reductions reflect Administration's priorities, not the Legislature's.

Staff Recommendation: REJECT Control Section 3.45

VOTE:

Control Section 4.05

Control Section 4.05 is intended to generate $200 million in budget year savings through unspecified reductions in departments' budgets. These reductions can be separated into two components:

- In the budget year, $100 million will be achieved through departmental savings to be identified. Savings may be achieved through General Fund reversions, the most effective method of realizing savings in recent years.
- An additional $100 million, authorized by intent language included in Control Section 4.05 of the 2005 Budget Act. That budget bill language asserted that the intended use of those savings would be to increase the General Fund reserve by $200 million by the end of 2006-07.

Staff Comment: The Administration's success in achieving unallocated savings objectives has been mixed. For example, an additional $150 million in *department-specific* unallocated reductions originally included in the proposed 2005-06 budget were, through budget hearings and revised estimates, reduced to an *estimated* $75 million in ongoing savings.

The Legislature had sought specific information on how these department-specific reductions would occur and added Control Section 4.10 to the 2005 budget bill, which stated:

> *SEC. 4.10. No later than December 10, 2005, the Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house the reductions made pursuant to the unallocated reductions included in this act. The report shall include the following: each specific reduction by department, agency, and program; whether the reduction is one-time or ongoing; its programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.*

Proposed section 4.10 of the 2005-06 budget bill was vetoed with the message,

> *"This language is an infringement on the Executive Branch's budget development process as the information necessary to produce this report may include budgetary decisions that would not be reached until the preparation of the 2006-07 Governor's Budget was complete."*

If Control Section 4.05 is to be implemented, reporting to the Legislature should be enhanced so programmatic impacts can be fully disclosed. The following amendment to the budget bill would improve oversight in a manner that won't infringe upon executive privilege during the budget development process.

> (e) The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees of each house of the Legislature that consider appropriations not ~~more than 30 days after the reductions are made pursuant to this section~~ *later than February 15, 2007, the amount of the reductions made in each item of appropriation pursuant to this section*. The report shall ~~list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction~~ *include the following: each specific reduction by department, agency, and*

program; whether the reduction is one-time or ongoing; a description of programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.

Furthermore, prudent limits on reductions should be enacted in order to limit the effect on state operations or local assistance appropriations. The following language, adopted in the Budget Act of 2004, would again provide the necessary protection.

A state operations appropriation, and a program, project, or function designated in any line of any schedule set forth by that appropriation, may not be reduced pursuant to subdivision (a) or Control Section 4.05 of the 2005 Budget Act by more than 20 percent. A local assistance appropriation, and a program, project, or function designated in any line of any schedule set forth by that appropriation, may not be reduced pursuant to subdivision (a) or Control Section 4.05 of the 2005 Budget Act by more than 5 percent.

Staff Recommendation: AMEND Control Section 4.05 to include the reporting language and reduction limits identified above.

VOTE:

Control Section 35.60: Budget Stabilization Account Transfer to the General Fund

Budget control section 35.60 provides statutory authority for the Director of Finance to transfer funds from the Budget Stabilization Account to the General Fund. This control section allows the Director to determine when a shortfall has occurred and then order a transfer to the General Fund in an amount sufficient to ensure there is a prudent General Fund reserve. The Director of Finance must notify the Joint Legislative Budget Committee and the Appropriations committees of each house within 15 days of making the transfer.

The department reports that this control section is necessary to satisfy the constitutional requirement enacted in Proposition 58 that transfers from the Budget Stabilization Account to the General Fund must have statutory authority. Additionally, this section would enhance the Director of Finance's capacity to respond to situations where continuous appropriations have reduced the General Fund reserve and augmentation is necessary.

Staff Comment: Proposition 58 is silent on how statutory authority must allow transfers from the Budget Stabilization Account to the General Fund. The proposed budget authority is unnecessary, as a stand-alone bill would provide the same authority with full legislative review.

Staff Recommendation: DELETE Control Section 35.60.

VOTE:

0860 Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department (EDD) are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. BOE also assesses utility property for local property tax purposes, oversees the administration of local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws.

The Governor's budget funds 3,802.9 positions (including 64.5 new positions) and proposes $370.6 million in total expenditures ($212.8 million General Fund).

1. Electronic Waste Recycling Fee Program Funding

The Board of Equalization's budget includes a direct appropriation of $5.2 million in the current year and $5.0 million in the budget year from the Integrated Waste Board's (IWMB) Electronic Waste Recovery and Recycling Account. These funds are used to administer the collection of electronic waste ("e-waste") fees from applicable retailers.

Staff Comment: In the first year of this program, 2004-05, the BOE was funded on a reimbursement basis. However, based on problems with receiving reimbursement from the IWMB, the payment method was shifted to a direct appropriation. For example, it took three to six months to get an interagency contract for E-Waste Recycling Fee collection approved. Notwithstanding these past problems, the IWMB recently assured Senate Budget Subcommittee #2 that they will pay BOE for services promptly if the reimbursement basis is restored.

A reimbursement basis is better practice in general, in that it will allow the lead agency responsible for the statutorily-directed activity (recycling of electronic waste), to be held fully accountable for administrative expenditures related to this program, including BOE's cost of collection.

Staff Recommendation: REDUCE the BOE appropriation from the Electronic Waste Recovery and Recycling Account by $5.2 million and INCREASE reimbursements from the IWMB by the same amount.

VOTE:

2. BCP: Retail Licensing Enforcement
The Board of Equalization requests 14.5 two-year limited term positions and $1.6 million ($1.1 million General Fund) in 2006-07 and $1.5 million ($950,000 General Fund) in 2007-08 for a pilot project to identify and register businesses that sell tangible personal property without a seller's permit. These resources will enable the BOE to identify and register entities who are actively engaged in business in California and selling tangible personal property without a seller's permit. This proposal will attempt to validate the voluntary change in registered businesses and increased revenue (i.e. indirect compliance) resulting from the licensing sweeps program.

The BOE estimates that revenues will be $12.6 million General Fund for both years of the pilot, a 7-to-1 benefit-cost ratio in the first year and 8.6-to-one benefit-cost ratio in the second.

The proposal is for a two-year pilot in one metropolitan area still to be determined. With only 16 approved positions, the Investigations Division must confine the pilot to one district. The BOE reports that the start-up delay will be limited as this activity requires little training and is expected to be a sought-after assignment for experienced auditors.

For businesses who comply with the law, under this proposal, there should be no interaction with the BOE investigator. Retail licenses are required to be posted publicly. If they are not, the visit should last as long as it takes the storeowner to show the license.

Staff Comments:
(*This issue was previously heard at the March 9 Subcommittee hearing.)*

Revenues are probably higher than estimated. The BOE assumes the minimum in taxable sales ($120,000) from all businesses they will encounter. However, the average business revenue in two possible pilot locations, Los Angeles and the Bay Area, is at least $400,000.

Furthermore, the BOE does not account for audit leads that will be generated by the findings of front line auditors. For example, if a licensee's sales tax returns indicate that 80 percent of their sales are sales of exempt food products but upon inspection our staff notes that over 80 percent of the inventory is products that would be subject to tax, an audit lead will be created. That lead will be forwarded to the district office to conduct an audit because of the high likelihood of an understatement of sales taxes.

Finally, the revenue estimate of $12.6 million is based on a three percent noncompliance rate found among retailers during the three initial pilot projects. However, four subsequent pilot projects discovered a *higher* noncompliance rate of between five and seven percent. This higher rate would likely affect the overall revenue estimate, as well as the staffing need.

Seven pilots suggest statewide rollout needed. The BOE has conducted a total of seven pilot studies on retail license noncompliance. The pilots have involved everything from targeted business sweeps to investigations involving over 2300 businesses in seven communities. The communities of central Fresno, south Stockton, Sacramento, downtown Oakland, northern San Jose, downtown Santa Clara, and central Gilroy have all participated in the pilot projects. The seven pilots suggest there are somewhere between 30,000 and 70,000 unlicensed retailers operating in California.

A larger rollout of retail license sweep activity would be consistent with the most recent retailer enforcement measure undertaken by the BOE: inspections of cigarette and tobacco products licenses. Currently, the BOE's Investigations Division has 40 inspectors who conduct approximately 10,000 inspections per year. Under the Cigarette and Tobacco Licensing Act, inspections have increased voluntary compliance and revenues by over $115 million since inception. Establishment of a statewide cigarette and tobacco licensing program is a precedent for rolling out a statewide retail licensing enforcement program.

Based on the information provided, approval of the proposed BCP would delay a practical and proven response to bridge the tax gap and enable scofflaws to further flout state law for their own unfair economic advantage. Funding a statewide proposal could help level the economic playing field in *every* region, not just one. Furthermore, statewide implementation in a variety of areas will enable better data gathering on the actual indirect compliance effect and allow the Administration and Legislature to make better decisions with regards to future resource allocations for this program.
In response to staff inquiries regarding the costs of a statewide rollout, the BOE has explained that 59 positions would be needed to fully staff all offices statewide over a three or four-year period. Revenues are conservatively estimated at $50.4 million, but could rise as high as $69.6 million.

The BOE has raised a number of concerns regarding staff's earlier suggestion that the retail licensing enforcement be considered for a statewide rollout. Specifically,

Verifiable overhead and administrative costs have not been calculated.

> Response: Staff has requested and been informed that the BOE cannot determine overhead costs at this time. The BOE will consider using the budget process next year if additional staffing and support need is identified.

Assumptions above three percent noncompliance are risky.

> Response: Staff concurs with the conservative approach and recommends a reevaluation program performance early next year to see if a higher rate of noncompliance is discovered statewide.

Recruitment at this level could be difficult in a two year pilot. A three or four-year pilot would be more practical and functional.

> Response: Staff concurs with a three-year pilot. Performance should be actively monitored during that time and resources adjusted as necessary.

A statewide rollout will precipitate a large and sudden shift of experienced personnel to these audits. These senior auditor positions have limited peace officer status, making them a tempting promotion to experienced personnel. To the extent that personnel shift from one area to retail licensing enforcement, experience will suffer in the other areas.

Response: The enticement of promotion and limited peace officer status is not a unique or new challenge for the department. The Board of Equalization has embarked on several new strategies to address this problem, as was described in an April 2006 report entitled, “Recruitment and Retention: Strategic Vision and Initiatives.”

STAFF RECOMMENDATION: AUGMENT the Retail Licensing Enforcement budget change proposal $5.1 million and 44.5 positions for three years limited term. This staffing augmentation will generate $59.6 million in revenues that the state should already be collecting.

VOTE:

3. Sales and Use Tax Administration Cost Allocation for Triple Flip

During the March 9, 2006, hearing, the Subcommittee considered and approved an updated methodology for allocating costs for administering and enforcing sales and use tax between the Special Taxing Jurisdictions and the state. BOE estimates that use of the new methodology would reduce General Fund costs by $5.7 million in 2006-07.

In a related tax administration issue, it has come to light that the state has been shifting an excessive amount of property tax revenue from schools to local governments under the "Triple Flip," resulting in an excess General Fund cost of approximately $10 million annually.

Under the "Triple Flip," the state imposed a new temporary quarter-cent Sales and Use Tax (SUT) dedicated to repayment of the Economic Recovery Bonds (ERBs). The state also suspended a quarter-cent of the local Bradley-Burns tax in order to keep the total rate constant. In the second leg of the Triple Flip, local governments are kept whole by transfers of property tax revenue to cities and counties from schools. In the third leg, the state General Fund makes schools whole by replacing the amount shifted property tax revenue. The net result is that the General Fund bears the cost of repayment of the ERBs in the form of higher payments to schools.

State law (Revenue and Taxation Code Section 97.68) requires the Director of Finance to provide the county auditors with annual estimates of the local Bradley-Burns revenue loss. The county auditors then shift an equal amount of property tax revenue from the schools to the cities and counties. The auditor’s estimate must be based on the "actual amount of sales and use tax revenues transmitted" to cities and counties in the prior year under the Bradley-Burns tax (adjusted to a one-quarter cent basis) plus an estimated growth factor. There is also a settle-up adjustment each year to reconcile the prior-year estimate with the actual revenue loss. The intent of this process is to replace the local Bradley-Burns revenue loss with a precisely equal amount of property tax revenue.

However, the Bradley-Burns revenue loss estimates forwarded by BOE to the Department of Finance (DOF) have been based on Bradley-Burns revenue collections, rather than revenue transmittals. The difference is that the amounts local governments actually receive are less a deduction for administrative costs. The Department of Finance has forwarded these amounts to county auditors without correcting them. As a result, cities and counties have received more property tax revenue under the Triple Flip than their actual loss of sales and use tax revenue. The difference is about $10 million annually.

Staff Comment: Under existing law, the half-cent SUTs imposed for Realignment (the Local Revenue Fund) and for local public safety (the Local Public Safety Fund) are not assessed for administrative costs. Instead, those costs are born primarily by the state General Fund. Adoption of the new cost-allocation methodology would not change this.

The issue here is not whether local governments should be "charged" for collecting the quarter-cent tax–the state is actually paying this portion of BOE's administrative costs while the Triple Flip is in place. The question is whether the law requires replacement of the suspended local revenues that cities and counties actually would have received (the net revenue) or whether local governments receive a "bonus" from the state. At staff's request, Legislative Counsel has reviewed the relevant statutes and opined that they require the replacement of the net revenue loss.

DOF should take corrective action to realize General Fund savings of $20 million for the 2006-07 Budget. This would be accomplished by correcting the 2005-06 allocation in the 2006-07 settle-up and using the correct methodology for the 2006-07 estimate. There also would be ongoing annual General Fund savings in excess of $10 million until the ERBs are paid off and the Triple Flip ended.

Staff Recommendation: REQUEST DOF and BOE respond to this issue and confirm their intent to carry out the Triple Flip calculations required by law.

VOTE:

4. Resale Certificate Abuse

The 2005-06 Budget included Supplemental Report Language directing the BOE to report on the results of its pilot audit of compliance problems in the use of resale certificates. Resale certificates are forms given to retailers by purchasers who claim exemption from paying sales tax on the basis that they are a registered seller and the purchase is for resale.

The BOE has obtained a statewide database of tax-exempt sales for resale from a major Big Box retailer. Initial indications are that purchasers provided a significant number of invalid sellers permit numbers and that a significant amount of purchases using valid numbers appear to be for items that are not in the purchaser's line of business (a jewelry purchase using a gas station resale permit, for example).

Staff Comment: The Board has not been able to fully analyze and follow-up on the information provided by the Big Box retailer at this time. However, BOE intends to do so in the next few months. Accordingly, staff suggests adoption of the following Supplemental Report Language:

The State Board of Equalization shall report to the Legislature by January 1, 2007 on the results of its pilot audit of the use of resale certificates at a "Big Box" retailer. The report shall identify significant types of compliance problems, estimate revenue losses due to noncompliance and tax evasion, and make recommendations to improve compliance, including, if warranted, modifications to the resale certificate process such as the use of data-encoded permit cards.

Staff Recommendation: ADOPT Supplemental Report Language (identified above).

VOTE:

8885 Commission on State Mandates

The Commission on State Mandates is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. The Governor's budget funds 14 positions (with no new positions) and expenditures of $243.4 million.

1. Mandate Funding Modifications in May Revision

The Administration proposes several changes to funding for mandate funding. These changes affect funding in past years, current year, budget year, and 2007-08. The key components are described below.

- The Administration proposes to revise their Governor's Budget proposal of funding both past year (2005-06) and current year (2006-07) mandates. The May Revision Finance Letter proposes an increase of $90.28 million for 2005-06 mandate claim expenditures, while deleting $46.20 million for 2006-07 costs (a net increase of $44.07 million). This approach reflects an interpretation of Proposition 1A that the state has no obligation to fund budget year mandates, but must fund the current year mandates ("full payable amount for mandates that have not been previously paid" (Article 13B, Section 6 of the California Constitution).

- The Administration requests to reduce funding by $40 million for mandates recently approved by the Commission on State Mandates. Under Proposition 1A, the state must budget funding for the prior-year cost of newly determined mandates.

- The Administration requests that Item 8885-299-0001 be increased by $71.8 million to fund the first and second year of the statutory repayment of non-education mandates over a 15-year period. Proposition 1A authorizes the state to pay mandate claims due prior to 2004-05. Later statute set the repayment over a period of 15 years, beginning in 2006-07. The size of the backlog is approximately $1.2 billion. Using more recent mandate claims cost information from the State Controller, the Administration proposes to: (a) reduce the 2006-07 mandate repayment amount by $15.1 million (to $83 million), and (b) pre-pay the 2007-08 mandate repayment amount of $86.9 million.

Staff Comment: The Administration's proposals reflect a substantial new commitment to paying down mandate debt. Of the proposals, the following two requests are consistent with Prop 1A and should be funded:

- ***Current Year (2005-06) Mandate Costs: $90.3 million***
- ***First Year of the 15-Year Payback of Costs Due Prior to 2005-06: $83.0 million***

However, the May Revision proposal does not reflect the most consistent and, in some cases, the most cost-effective approach to paying off mandate costs. The following adjustments are appropriate:

Prior-Year Cost of Newly Identified Mandates: -$5.7 million.
Funding for these costs is inconsistent with the Administration's position of, pursuant to Prop 1A, not funding budget year mandate costs. These costs should be excluded.

2007-08 Mandate Payback: -$86.9 million
Advance funding for the 2007-08 share of past due mandate costs, while useful as a debt reduction tool, does not merit advance payment relative to the other unrecognized costs described below.

Past Year and Half Year of AB 3632 Mandate Costs: +$117.5 million
The Administration proposes to shift the AB 3632 program to a categorical program. If enacted, this shift would be effective sometime in the budget year. To be prudent, the estimated full implementation date would be January 1, 2007. Consequently, the state should fund the first half-year cost of the AB 3632 mandate (approximately $51.5 million).
Consistent with the Governor's proposal to fund prior year mandate costs, the Governor should include funding for prior year mandate claims for this mandate (approximately $66 million).

2005-06 Costs for Peace Officer's Bill of Rights (POBOR) Mandate: +$16.6 million
The May Revision does not include funding for the POBOR Mandate, a long deferred mandate. To begin to appropriately recognize the cost of this mandate at the time when costs are incurred, this mandate should be funded.

Audit Exception Recognition: -$44 million
The State Controller's Office (SCO) has temporarily suspended fully enforcing audit exceptions for disallowed or reduced mandate claims. This suspension has permitted overpayments to mandate claimants, which must be recovered. The Department of Finance has amended this situation by requiring the SCO to collect these costs in the budget year. Recoupment of these overpayments in the budget year will result in a substantial savings to the state.

(Overall Adjustment to May Revision Proposal: -$3 million)

Staff Recommendation: APPROVE the overall mandate funding reduction of $3 million, consistent with the staff comments above.

VOTE:

2. April Finance Letter: Conversion of Limited-Term Test Claim Backlog Positions to Permanent
The Administration requests to convert three positions established in the 2004 Budget Act from three-years limited term to permanent positions. This request would have no fiscal effect until 2008-09, when an ongoing commitment of $322,000 would be recognized. The three positions, two Staff Counsel IIIs and one Staff Services Manager I, were established last year for the purpose of eliminating a backlog in mandates proposed for reconsideration.

Additionally, the Administration proposes to add the following budget bill language requiring reporting on workload levels and mandate backlog. This reporting language will allow the Department of Finance to track workload and propose elimination of the positions if they are no longer needed.

> *2. The Commission on State Mandates shall, on or before September 15, 2006, and annually thereafter, submit to the Director of Finance a report identifying the workload levels and any backlogs for the Commission on State Mandates' staff.*

Staff Comment: A significant fiscal savings incentive exists for the Legislature to adopt this Finance Letter in that having staff to help reconsider mandates and process disputes often results in reductions to truly eligible reimbursement costs.

Staff Recommendation: ADOPT the Finance Letter.

VOTE:

9620 Payment of Interest on General Fund Loans

The Administration requests that Item 9620-002-0001 be increased by $21.0 million to provide funding for the repayment of interest on 12 General Fund budgetary loans. As a result of prepaying in 2006-07 $176.9 million in special fund loans to the General Fund that had been expected to be repaid in 2007-08, it is estimated that $21.0 million in additional interest cost will be incurred in 2006-07 that would otherwise be payable in 2007-08.

The following loans and interest amounts would be repaid, as shown below.

Department	Description	Amount ($s in 000s)	"Scheduled" Repayment Date	Interest Payment ($s in 000s)
Department of Consumer Affairs	Loan from Osteopathic Medical Fund	$2600	06/01/2007	$274
Department of Consumer Affairs	Loan from Pharmacy Fund	3000	06/01/2007	355
Department of Consumer Affairs	Borrow from State Dentistry Fund	2500	06/01/2007	296
Department of Consumer Affairs	Borrow from Registered Nursing Fund	6200	06/01/2007	733
Department of Consumer Affairs	Borrow from Barbering and Cosmetology Fund	900	06/01/2007	106
Department of Consumer Affairs	Loan from Structural Pest Fund	2000	06/01/2007	237
California Energy Commission	Loan from Renewable Resources Trust Fund to GF	150,000	06/01/2007	710
Department of Corrections	Loan from State Corporations Fund	6000	06/01/2007	17740
Department of Housing and Community Development	Loan from Manufactured Home Recovery Fund	400	06/01/2007	25
Department of Housing and Community Development	Loan from Housing Rehabilitation Loan Fund	500	06/01/2007	32
Department of Consumer Affairs	Loan from Court Reporters Fund	1,250	06/01/2007	61
Department of Consumer Affairs	Loan from Acupuncture Fund	$1,500	06/01/2007	$73

Staff Comment: While the majority of loans due for repayment in 2007-08 are proposed for prepayment next year, loans coming due in 2008-09 are not recommended for early repayment. Given the several billion dollar budget shortfall anticipated in 2008-09, it appears prudent to devote additional resources to special fund loan repayments now, before additional interest costs accrue. According to the Department of Finance, the total amount of special funds due in 2008-09 is $463.5 million.

Staff Recommendations:
1. APPROVE the Finance Letter.

2. Request the Department of Finance respond to staff's comments about devoting additional resources to 2008-09 special fund loan debt.

VOTE:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Agenda – Part B

Wednesday, May 17, 2006
9:30 a.m.
Room 113

Consultant: Brian Annis

May Revision and Open Issues – Select Departments

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Department Budgets Proposed for Consent / Vote Only

2100 Department of Alcoholic Beverage Control

The Department of Alcoholic Beverage Control (ABC) was heard by the Subcommittee on March 8 and April 20 and all Governor's Budget requests were acted upon. The Administration has since submitted a May Finance Letter request.

1. **Licensing and Compliance System (LCS) – Reversion (May Finance Letter).** The Administration requests a new budget item to revert $1.3 million of unexpended special funds for the Licensing and Compliance System Project. This information technology project was originally approved by the Legislature with the 2004-05 Budget Act. Litigation by an unsuccessful bidder will delay the award of the contract into 2006-07, or beyond. The new system is replacing the existing 1993 system (the California Alcoholic Beverage Information System (CABIN)), which faces both hardware and support limitations, and limits new functionality.

   Staff Comment: The reversion would affect funding provided for the project in 2005-06. The Governor's Budget for 2006-07 includes $2.4 million for this project, which would not be affected by this proposal. The Administration indicates that if litigation is resolved in the near future, the project will be able to move forward with the funding already included for 2006-07. To restore complete project funding, the Administration intends to request to restore the reverted funding in 2007-08.

   Staff Recommendation: Approve the request.

   Vote:

Department Budgets Proposed for Discussion / Vote

0520 Secretary for Business, Transportation and Housing

Budget Changes proposed for Consent / Vote Only

1. **Chrome Plating Program Implementation (Trailer Bill Language).** On March 8, the Subcommittee approved an Administration request for expenditure authority of $278,000 for state operations and $250,000 for local assistance (all special fund) for the Chrome Plating Pollution Prevention Program, established by AB 721 (Chapter 695, Statutes of 2005, Nunez). The Assembly took the additional action of adopting clean-up trailer bill language that amends the program to cover "metal" plating and not just "chrome" plating.

   Staff Comment: Staff understands that restricting the program to chrome-only would narrow the number of applicants below what was anticipated last year. The trailer bill revisions would restore the program to the pollution abatement and cost level that was intended when the Legislation was enacted.

   Staff Recommendation: Conform to the Assembly action to adopt clean-up trailer bill language.

   Vote:

Issues for Discussion / Vote

1. **Manufacturing Technology Program (Staff Issue).** The Governor's Budget includes reimbursements of $2.0 million to support the Manufacturing Technology Program (MTP). This program supports the efforts of the Corporation for Manufacturing Excellence (MANEX) in Northern California and the California Manufacturing Technology Center (CMTC) in Southern California. These entities provide consulting services to small manufacturers to improve their efficiency and to retain these firms in the state. Staff has learned that the Agency did not receive the budgeted reimbursements in 2004-05 or 2005-06, and is unlikely to receive the reimbursements in 2006-07.

   Staff Comment: The MTP was part of the Technology, Trade and Commerce Agency that was eliminated in 2003-04. The program was moved to the BT&H agency and was funded in 2003-04 with reimbursements of $2.1 million from the Employment Training Panel (ETP) via budget bill language in the Employment Development Department budget requiring the transfer. ETP funding is intended for workforce training, not employer consulting, so the language requiring ETP funding was deleted for 2004-05. Without the ETP funding, the MTP has not found another source of reimbursement funds to support MANEX and CMTC with State funds.

   Since the budget reimbursements are unlikely to be realized to support the Manufacturing Technology Program, the Subcommittee may want to consider adding General Fund support for the program. Staff understands that MANEX and CMTC have presented a proposal for $3 million in General Fund support with $2.1 million available to CMTC and $900,000 available to MANEX. The entities would then contribute $300,000 each to consulting services in the Central Valley.

   Staff Recommendation: Augment General Fund by $3.0 million to restore State support for the MTP and add the following budget bill language:

   Item 0520-101-0001 - add Provision 1: *Of the funding appropriated by this item, $900,000 shall be allocated to a qualified grantee in Northern California and $2,100,000 shall be allocated to a qualified grantee in Southern California. Each grantee shall expend $300,000 to support the program in the California Central Valley.*

   Vote:

2. **California Partnership for the San Joaquin Valley (May Finance Letter).** The Administration requests one-time funding of $5 million (General Fund) and 2.0 limited-term positions to support implementation of the San Joaquin Valley Strategic Action Proposal. The funding would be split with $2.5 million supporting BT&H operations costs for the program and $2.5 million supporting a competitive grant program.

   Detail: Established by Executive Order on June 24, 2005, the California Partnership for the San Joaquin Valley was created to address the economic challenges in the eight counties that comprise the San Joaquin Valley Region. Nine elected officials, nine civic leaders, and eight cabinet agency secretaries were appointed to direct the Partnership. The Executive Order requires preparation of a Strategic Action Proposal to improve the economic well-being and quality of life in the San Joaquin Valley. The Governor's Executive Order requires preparation of a Strategic Action Proposal by October 2006.

   Staff Comment: Given that the Strategic Action Proposal is not complete, the Subcommittee may want to consider the following budget bill language to improve oversight and accountability.

   Provision (_) to Item 520-001-0001. Of the funds appropriated in this item, $2,500,000 is allocated to administer the California Partnership for the San Joaquin Valley (Partnership). No funds shall be expended for this purpose until the Partnership (1) adopts the Strategic Action Proposal, and (2) submits to the Joint Legislative Budget Committee a report detailing the governance and organizational structure for the Partnership.

   Provision (_) to Item 520-101-0001. Of the funds appropriated in this item, $2,500,000 is allocated to administer a competitive grant program within the California Partnership for the San Joaquin Valley (Partnership). No funds shall be expended for this purpose until the Partnership, (1) adopts the Strategic Action Proposal, and (2) submits to the Joint Legislative Budget Committee a report detailing the governance and organizational structure for the Partnership, and (3) provides a 1 to 1 local match for any amount of grants awarded. Up to fifty percent of the local match may be provided from federal funds.

   Staff Recommendation: Approve the request with the addition of the budget bill language.

   Vote:

2400 Department of Managed Health Care

The Department of Managed Health Care (DMHC) was heard, by the Subcommittee on March 8. Two issues were left open and a May Finance Letter was submitted by the Department.

Issue Proposed for Consent / Vote-only

1. **Staffing Augmentation for Legislative Analysis & Support (BCP #3).** The Department requests $165,000 (special fund) and authority to add two permanent positions (an Associate Governmental Program Analyst and an Office Technician) for legislative analysis and support workload.

   Background/Detail: The Department indicates that the Office of Legal Services, which includes the Legislative Division, originally consisted of 31 authorized positions, but, through vacant position eliminations, was reduced to 25 positions. The Legislative Division has always had only one staff position, but the Department indicates other staff time has been redirected in recent years to handle the workload, and that continued redirection carries a “very real risk” of missing statutory and/or court-imposed deadlines. In 2003 and 2004, 1,998 staff hours and 4,979 staff hours were respectively used for legislative workload. The DMHC expects about 8,000 hours of legislative workload in 2005-06.

   Staff Recommendation: Approve the request.

   Vote:

Issues for Discussion / Vote

1. **Provider Oversight Program (BCP #1).** The Department proposes to augment funding by $3.8 million and 17 positions to conduct financial solvency oversight of Risk Bearing Organizations (RBOs) and ensure prompt and sufficient payment of health care provider claims. The positions would staff the proposed Office of Provider Oversight which would include a Provider Solvency Unit, a Provider Complaint Unit and an associated Provider Oversight Management Group.

   Background: SB 260 (Chapter 529, Statutes of 1999, Speier), established the Financial Sovency Standards Board (Board) and placed certain financial standards on RBOs and required DMHC to adopt related regulations. The initial regulations were challenged in court, and final regulations were not approved by the Office of Administrative Law until 2005. DMHC indicates that three positions were added for SB 260-related activity in 2002-03; however, two of the positions were eliminated due to vacant position reductions.

   AB 1455 (Chapter 827, Statutes of 2000, Scott) established new requirements for prompt and fair payment of provider claims by health plans, and authorizes DMHC to impose sanctions on a plan when an unfair payment pattern is found. Following the adoption of regulations, the Department established the Provider Complaint Unit (PCU) "pilot" in September 2004 with borrowed and temporary resources.

   Staff Comment: This issue was heard on March 8 and left open for further discussions concerning the Department's administration of provider complaints. To address some of the concerns raised, the Department has agreed to post specified performance measures on its website. The following trailer bill language, which was developed in cooperation with the DMHC and the California Chapter of the American College of Emergency Physicians (a major provider group), would specify process and reporting requirements:

   Placeholder Trailer Bill Language:

   SECTION 1. Section 1371.395 is added to the Health and Safety Code to read:
   (a) The "Provider Complaint Unit" is hereby created within the department to further the intent of AB 1455 (Chapter 827, Statutes of 2000) to ensure that health care service plans and capitated providers do not engage in demonstrable and unjust payment patterns.
   (b) For each complaint submitted by a provider to the department, the department shall request a complete list of additional documentation or information reasonably necessary for the review and investigation of the complaint.
   (c) For each complete complaint submitted by a provider to the department, the department shall, within 60 calendar days, complete its review of the complaint unless the Director determines good cause exists for not completing the review. When the review is completed, the complaint shall either be closed or forwarded to the Department's Office of Enforcement for appropriate action.
   (d) For the purposes of this section, "complete complaint" means that the provider submits a complaint through the Department's online provider complaint system and

submits to the Department all of the documentation necessary for the Department to complete its review.
(e) Beginning January 1, 2007 and at least quarterly thereafter, the department shall publish on its website a report. The department shall report the information by calendar month the complaints that were received through the department's online provider complaint system, and the report shall include the following.
(1) The number of provider complaints received and closed through the department's online provider complaint system.
(2) The average time for the Provider Complaint Unit to complete its review of complaints submitted through the department's online complaint system.
(3) The number of complaints that have been closed by the Provider Complaint Unit by reason for closure. The reasons for closure shall include: non-jurisdiction; duplicate; provider non-responsive to request for information or documentation; complaint resolved; and referred to enforcement.
(4) The number of complaints received and closed for each dispute category identified in the department's online provider complaint system.
(5) For each dispute category, the number of complaints submitted by provider type as identified in the Department's on-line provider complaint system.
(6) For each dispute category, the number of complaints submitted against full service plans, specialized plans, and capitated providers
(7) The amount of additional reimbursement recovered for providers.
(8) The final results of any formal enforcement actions resulting in administrative penalties, fines or corrective action plans.
(9) Verification of a payer's failure to implement a corrective action plan as a result of an audit conducted by the department.
(f) Beginning January 1, 2007 and every January 1 and July 31, thereafter, the department shall report on its website complaints forwarded from the Provider Complaint Unit to the Office of Enforcement . This report shall include:
(1) the number of complaints referred from the Provider Complaint Unit to Office of Enforcement by alleged statutory violation.
(2) the number of complaints referred from the Provider Complaint Unit to the Office of Enforcement by calendar month;
(3) the number of complaints closed by the Office of Enforcement that were referred from the Provider Complaint Unit;
(4) the number of complaints referred from the Provider Complaint Unit that resulted in formal enforcement action and the type of action taken by Office of Enforcement.
(g) Beginning January 1, 2007 information posted on the department's website related to enforcement actions shall be maintained on the website for at least 5 years from the date of posting.
(h) Nothing in this section is intended to limit a provider's ability to advocate on behalf of an enrollee through the department's HMO Help Center.

Staff Recommendation: Approve the BCP and the trailer bill language.

Vote:

2. Health Plan Oversight Division Staffing (May Finance Letter): The Administration requests the addition of 10.0 permanent positions and 2.0 limited-term positions to be funded within existing budgeted resources. The request would continue most of the 13.0 administratively-established positions added in 2005-06. The 12.0 requested positions would increase staffing in the Health Plan Oversight Division to a total of 36.9. The Department indicates these positions are needed to continue efforts to improve the review of required health plan filing submissions in order to meet market and industry demands and to provide appropriate oversight necessary for DMHC to fulfill its statutory responsibilities.

March 8 Hearing. At the March 8 hearing, the Subcommittee reduced the DMHC budget by $1.0 million (special fund) because the Department appeared to be over-budgeted for authorized positions. The Governor's Budget display titled "Changes in Authorized Positions" indicated that 13.0 positions were administratively added to the Department's budget in 2005-06. Pursuant to Budget Control Section 31.00, the Administration does have the authority to add positions within the same fiscal year if the budgeted resources are sufficient. To continue the positions beyond a fiscal-year, departments must submit a BCP or Finance Letter request (as specified in Control Section 31.00). A full-year cost for the 13 added positions is approximately $1.0 million. Since DMHC was able to fund 13.0 positions within existing budget resources, and the Department did not request the continuation of the positions in a BCP, it appeared that the 2006-07 budget was over-appropriated by about $1.0 million. The Subcommittee expressed a willingness to consider a restoration of the funding, if a Finance Letter was submitted to justify the need.

Detail: The Department indicates that approval of this request would allow the department to meet the following benchmarks:

- Reduction in approval time for new license applications from over 1 year to six months or less.
- Reduction in approval time for material modifications of plan operations from over six months to 90 days or less.
- Reduction in approval time for new product filings by amendment from four months, or more, to under 60 days.

LAO Recommendation: The LAO recommends that one of the requested 12 positions be rejected due to lack of justification – specifically, the Health Program Manager II position. This is an additional management position beyond what was administratively established in 2005-06 and the two supervisors should be sufficient.

Staff Recommendation: Consistent with the LAO recommendation, approve all requested positions except the Health Program Manager II, and restore the $1.0 million the Subcommittee cut on March 8.

Vote:

4. **Consumer Participation Program Sunset (Staff Issue).** Legislation enacted in 2002 (SB 1092, Chapter 792, Sher), provides intervener funding for consumer groups that advocate on regulatory proceedings at the Department of Managed Health Care. The program is funded out of the licensing fees paid to DMHC and is capped at $350,000 annually. The program sunsets on January 1, 2007.

   Staff Comment: The DMHC indicates that advocates are not reimbursed until the regulatory process is complete, which can take up to several years. Several regulation packages are currently moving through the process. As of March 2, 2006, no funding had been awarded, and only one request for $7,268 has been received. DMHC never received an augmentation for this program and, as such, would absorb any costs within existing budgeted resources. Given that the long regulatory process has delayed the implementation of the program and associated claims and payments, the Subcommittee may want to consider extending the program sunset by five years – to January 1, 2012.

   Staff Recommendation: Adopt placeholder trailer bill language to amend Section 1348.9 of the Health and Safety Code to extend the program sunset to 2012.

   Vote:

2640 Special Transportation Programs

The Special Transportation Program provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation operations and projects. Revenue comes from the sales tax on diesel fuel, a share of Proposition 42 revenues, and the Proposition 111 piece of the sales tax on gasoline.

The Governor's January Budget proposed funding of $235.0 million for Special Transportation Programs.

Discussion / Vote Issues

1. **Budget Adjustment to Reflect New Revenue Projections (May Finance Letter):** The May Revision requests an augmentation of $36.2 million based on the updated Administration forecast of gasoline and diesel sales tax revenues. Of this amount, $34.8 million is attributed to an increase in diesel fuel sales taxes and $1.4 million is from Proposition 42 revenues. The appropriation for this item refers to the provisions of Section 99312 of the Public Utilities Code, such that the final allocation of revenue under this item ties to actual revenue received and therefore will ultimately be different than the amount included in the Budget Act.

   Staff Comment: The adjusted appropriation amount of $271 million represents a significant increase from the $201 million in the 2005 Budget Act. However, the Administration's May Revision does not include expenditures in this item for "spillover" revenue. The "spillover" is a portion of the gasoline sales tax that is received on top of Proposition 42 revenue. Under existing statute, a portion of the 2006-07 spillover, and all spillover revenue in 2007-08 and beyond, would go to the Public Transportation Account (PTA) – with half of that going to Special Transportation Programs.

   Under the Administration's May Revision proposal, $172 million in spillover revenue that would otherwise be allocated to Special Transportation Programs under this item, would instead fund debt service on existing and future transportation general obligation bonds. Staff understands that the Subcommittee is not supportive of the Administration's spillover proposal and that issue is accordingly excluded from the Caltrans section of the Agenda. Consistent with that direction, this item should be adjusted to reflect current law (instead of the Governor's spillover proposal).

   Staff Recommendation: Approve the May Revision request, but additionally augment the funding to reflect the spillover revenue due under current law (an increase of approximately $172 million above the May Revision request).

   Vote:

2660 Department of Transportation

Vote-Only Issues

1. **Tort Payments (May Revision Letter).** The Administration requests a permanent increase of $12.2 million (State Highway Account) to fund tort payments. In a Section 26.00 letter dated March 6, 2006, the Department of Finance reported to the Joint Legislative Budget Committee (JBLC) that Caltrans has requested a shift of funding among programs of $24.8 million in order to pay higher-than-budgeted tort claims in 2005-06. While the budget for tort claims has remained unchanged in recent years at $41.4 million, Caltrans has had to shift budget resources in four of the past six years to pay tort claims. The historical tort budget funding and actual expenditures are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	$41.4	$65.1	$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06*	41.4	66.7	25.3
Average	**$41.4**	**$52.5**	**$11.1**

* Estimate

Staff Comment: The Subcommittee heard this issue at the March 30, 2006 hearing and requested that Caltrans reevaluate its 2006-07 tort funding need. Since tort claims have averaged more that $11 million over budgeted levels over the past six years, it seems likely that the 2006-07 need will exceed the $41.4 million in the January Governor's Budget.

The Administration also requests the following budget bill language to transfer any tort funds unencumbered as of April 1, 2007, for capital outlay expenditures for State Highway Operations and Protection Program (SHOPP):

Item 2660-001-0042, Provision (_). Of the funds appropriated in Schedule (5) of this item, $48,600,000 is for the payment of tort lawsuit claims and awards. Any funds for that purpose, which are unencumbered as of April 1, 2007, may be transferred to Item 2660-302-0042. Any transfer will require the prior approval of the Department of Finance.

Staff Recommendation: Approve the Finance Letter request.

2. **Expenditure of Increased Proposition 42 Revenue (May Finance Letter):** The Administration requests budget adjustments to reflect the new forecast of Proposition 42 revenues in 2006-07. The Department of Finance projects an increase of $13.6 million relative to the Governor's Budget – to a new total of $1.420 billion. The following budget adjustments are requested for local assistance and capital outlay, which total to $13.6 million:

   - Increase Item 2660-302-0046 by $1,356,000.
   - Increase Revenue and Taxation Code Section 7104 by $2,061,000 for local assistance.
   - Increase Revenue and Taxation Code Section 7104 by $8,786,000 for capital outlay.
   - Increase Item 2640-101-0046 by $1,356,000.

   Staff Recommendation: Approve the request.

   Vote:

Discussion / Vote Issues

1. **Repayment of Proposition 42 Loans**. The Administration proposes early repayment of $920.0 million of the $1.258 billion in Prop 42 funds borrowed by the General Fund in 2004-05. The allocation of this repayment is statutorily specified; however, the Administration proposes to amend statute to shift a portion of this early repayment from the Traffic Congestion Relief Program (TCRP) and the Public Transportation Account (PTA) to the State Transportation Improvement Program (STIP) and local streets and roads. After full repayment in 2007-08, the final allocation would be consistent with current law. The repayment of $920 million, under current statute and under the Governor's proposal, is as follows:

$920 Proposition 42 Loan Repayment ($ in millions)		
	Current Statute	**Governor's Proposal**
Traffic Congestion Relief Program	$678.0	$410.0
Local streets and roads	$96.8	$255.0
State Transportation Improvement Program (STIP)	$96.8	$255.0
Public Transportation Account for State Transit Assistance (STA)	$24.2	-
Public Transportation Account for STIP	$24.2	-
TOTALS	**$920.0**	**$920.0**

The proposed repayment is associated with one of three outstanding transportation loans to the General Fund. The following table illustrates the three loans with historical and anticipated loan repayment dates.

Summary of Transportation Loans to the General Fund ($ in millions)					
Transportation Loans to the General Fund	**Loan Amount**	**Amount repaid to date**	**Repayment Proposed in 2006-07**	**Outstanding amount (after 2006-07) ***	**Current-law due date**
►Traffic Congestion Relief Fund loans (from 2001-02 & 2002-03)	$1,383	$183	$1,000	$200	none
►2003-04 Propositions 42 loan	868		0	868	June 30, 2009
►2004-05 Proposition 42 loan	1,258		920	338	June 30, 2008
Total	$3,509	$183	$1,920	$1,406	

* Interest is required, but not included in these calculations

Bond Package: The Legislature recently enacted a package of bills to place infrastructure bonds on the November 2006 ballot. Senate Bill 1266 includes $19.9 billion in bonds for transportation. Senate Constitutional Amendment 7

(SCA 7) further restricts the ability of the Governor and the Legislature to suspend Proposition 42 during a fiscal crisis and provides for repayment of all past Proposition 42 loans no later than June 30, 2016. SCA 7 specifies annual repayments shall be no less that one-tenth of the amount due and authorizes the Legislature to provide, by statute, for the issuance of bonds by state or local agencies that are secured by the minimum payments. No legislation was enacted as part of the bond package that changes the current statute requirements for loan repayment, which are indicated in the above table.

Staff Comment: In determining the appropriate amount of General Fund resources to direct to Proposition 42 loan repayment, the Subcommittee may want to consider the enactment of SB 1266 and SCA 7, as well as the additional spillover revenue that will go to the Public Transportation Account and the Special Transportation Program (see agenda page 9) under current law. A 2006-07 repayment at the level of $460 million would still provide a significant prepayment of the amount due in 2007-08 and would more than double the annual repayment amount required in SCA 7.

Staff Recommendation: Approve repayment at the level of $460 million with the requested repayment allocation proportionally reduced (approximately $205 million to the Traffic Congestion Relief Fund, $127.5 million to local streets and roads and $127.5 million to the STIP).

Vote:

2. **Repayment of TCRF Loans from Tribal Gaming Revenues (April Finance Letter and Trailer Bill Language)**. Under current statute, repayment of approximately $1.2 billion in loans made from the Traffic Congestion Relief Fund (TCRF) to the General Fund in 2001-02 and 2002-03, shall be repaid from revenues received from tribal gaming (see also the loan summary table in the prior issue). Statute provides for the issuance of tribal gaming bonds to accelerate the repayment of the loans. The Governor's January Budget assumed $1.0 billion in tribal gaming bonds would be sold in 2005-06. Due to ongoing litigation, an April Finance Letter moves the assumed bond sale from 2005-06 to 2006-07 and requests related budget changes. In addition, the April Letter requests budget changes to reflect the transfer of approximately $151.0 million in existing tribal revenue to the TCRF as partial loan repayment. Related to this request, the Administration requests trailer bill language to update interest estimates and to remove the statutory due dates for the repayment of loans from the State Highway Account (SHA) and the Public Transportation Account (PTA) to the TCRF.

   Detail / Background: A total of $1.6 billion was transferred from the General Fund to the TCRF in 2000-01 for projects in the newly-established Traffic Congestion Relief Program. As a result of General Fund shortfalls in 2001-02 and 2002-03, a total of $1.383 billion was loaned back to the General Fund. To provide funding for Traffic Congestion Relief Projects, intra-transportation loans were made: approximately $563 million was loaned from the SHA to the TCRF (with repayment due by June 30, 2007); and $275 million was loaned from the PTA to the TCRF (with repayment due by June 30, 2008).

   In concert with the 2004-05 budget, the Governor signed gaming compacts with five tribes that would direct a portion of gaming revenue to the State for the purpose of repaying loans to the TCRF. In turn, the funding paid to the TCRF would be used to support Traffic Congestion Relief Program project, repay the loans to the SHA and PTA, and repay other loans. Statute enacting the compacts (AB 687, Chapter 91, Statutes of 2004) prioritized the TCRF allocations, such that the first $457 million paid to TCRF from tribal gaming revenues will be used to repay the SHA loan.

   Staff Comment. Litigation continues to delay the issuance of bonds, and deletion of SHA and PTA due dates seems reasonable given this litigation and statutory direction that all TCRF loans shall be repaid with tribal revenues. AB 687 allows the Director of Finance to transfer quarterly tribal revenues of approximately $25 million to the TCRF – to the extent these revenues are not needed to repay bonds. By the end of 2005-06, the Department indicates about $151 million in tribal payments will be in the available for transfer to TCRF. This transfer would not affect the ability of the state to issue bonds in the future, which would be repaid with future tribal payments.

   Staff Recommendation: Approve the Finance Letter and two related trailer bills.

   Vote:

3. **Trailer Bill Language.** The Administration requests the following trailer bill language, which is in addition to the language included in other agenda issues:

- Language to clarify legislative intent related to 2006-07 gasoline sales tax transfers for the Bay Bridge project.
- Language to clarify legislative intent related to the use of “spillover” revenues which are suspended by statute and not transferred to the Public Transportation Account.
- Language to allow the same budgetary and accounting treatment for the Transportation Deferred Investment Fund (TDIF) that is currently used for the SHA and PTA.

Staff Recommendation: Direct staff to draft trailer bill language in these areas as needed for the purpose of clarification, technical clean-up, and accounting treatment.

Vote:

4. Non-Article XIX Funds – Transfer to the General Fund. The Administration requests the transfer of $9.3 million from the State Highway Account to the General Fund to provide General Fund relief. The funds proposed for transfer are not subject to the restrictions of Article XIX of the Constitution, nor are they subject to Federal Highway Administration control.

Detail: The Department provided the following table that details the revenue sources for the non-Article XIX revenue. Under Street and Highway Code Section 183.1, the revenue is transferred annually from the State Highway Account to the Public Transportation Account. The 2004-05 revenue (which determines the 2005-06 transfer to the Public Transportation Account) is high due to the sale of some high-priced Caltrans properties. The revenue available for the 2006-07 transfer is anticipated to be $51.5 million, with $9.3 million transferred to the General Fund, and $42.2 transferred to the PTA in accordance with Section 183.1. The budget bill notes that the transfer to the General Fund is intended to constitute a reimbursement for debt service payments related to past transportation general obligation bonds. Similar transfers to the General Fund were approved for 2003-04 and 2004-05, but no transfer was proposed or enacted for 2005-06.

SHA Section 183.1 Proceeds Transfer (Actuals)
($ in millions)

		2000/01	2001/02	2002/03	2003/04	2004/05	2005-06
141200	Sales of Documents	$0.962	$0.927	$0.679	$0.549	$0.254	
151200	Condemnation Deposits	4.216	3.091	1.750	$1.889	$1.141	
152200	Rental of State Property	42.097	38.836	40.581	$32.440	$36.719	
152300	Miscellaneous Revenue from Use of Property/Money	23.786	10.888	14.512	$18.423	$46.576	
161000	Escheat Revenue	0.300	0.345	0.323	$0.585	$0.629	
161400	Miscellaneous Revenue	11.892	5.113	2.549	$2.770	-$4.390	
	Total Section 183.1 Proceeds	$83.254	$59.200	$60.395	$56.656	$80.930	
Transfer to:							
	T00046 Public Transportation Account per Streets and Highways Code 183.1 (following year)		$83.254	$59.200	$60.395	$56.656	$80.930

Staff Recommendation: Approve the request.

5. **Maintenance Funding.** The Administration requests a permanent increase of $105.3 million for highway infrastructure preservation. The Department's *2005 Five-Year Maintenance Plan* described the existing maintenance backlog and proposed to augment the State Highway Operation and Protection Program (SHOPP) by $105.3 million. This augmentation is not mentioned in the budget documents; however, Caltrans indicates the increase was built into the SHOPP appropriation. Historically, this preservation work would be budgeted and staffed in the Maintenance Program. Under the Administration's proposal, the work would be budgeted and staffed in the Capital Outlay Support Program. As such, no new positions are budgeted for this workload – instead staffing changes would be included in the May Revision Finance Letter for the zero-based Capital Outlay Support staffing.

   Staff Comment: This issue was heard at the March 30 hearing. The Chair indicated support for the staff recommendation; however no action was taken at the request of Caltrans. The proposed budget represents both an augmentation and workload shift, from the Maintenance Program to the SHOPP (Capital Outlay Support Program).

   Caltrans indicates the **advantages** of the shift are: (1) increased expenditure flexibility for the Department and the California Transportation Commission (CTC); and (2) an improved workload match for Engineers in the Capital Outlay Program versus the Maintenance Program.

   Staff sees the **disadvantages** of the shift are: (1) reduced legislative oversight (Budget Change Proposals are submitted for Maintenance Program augmentations, but not for SHOPP); (2) additional time for legislative position review (new positions for the Maintenance Program are generally detailed with the January 10 Governor's budget, while Capital Outlay Support positions are detailed in the May Revision); and (3) budget consistency (since the shifted "preservation" workload has historically been included in the Maintenance Program, year-over-year budget comparisons will be less relevant).

   LAO Recommendation: In the *Analysis of the 2006-07 Budget Bill*, the LAO recommends that the Legislature restore budget bill language which the Administration omitted that segregates funding for major pavement maintenance contracts so the funding cannot be redirected for another purpose:

   Of the funds appropriated in this item, $76 million is for major maintenance contracts for the preservation of highway pavement and shall not be used to supplant any other funding that would have been used for major pavement maintenance.

   Staff Recommendation: Decrease the SHOPP appropriation by $105.3 million and increase the Maintenance appropriation by $105.3 million. Approve the LAO proposed budget bill language.

   Vote:

6. Capitol Outlay Support (COS) Project Delivery Workload (May Finance Letter). The Administration requests a net reduction of $39.3 million (special funds and federal funds) and 412 full time equivalents (including 215 staff positions (measured in personnel years (PYs)), cash overtime (62 PY equivalents), and contract staff (135 PY equivalents)) to deliver planned baseline COS workload during the budget year.

Detail: This request includes the transfer of $8.1 million in savings from COS-Stormwater related activities to the Maintenance Program for litter removal and bridge paint containment. This request also includes a transfer of $185.0 million from the Transportation Investment Fund to the State Highway Account in order to pay for COS workload resulting from the funding of Proposition 42. This transfer will permit additional State Highway Account funds to be spent on projects in the State Highway Operation and Protection Plan. This element of the request will require changes to the following items:

LAO Recommendation: The LAO is concerned that Caltrans will not be able to achieve adequate COS staffing levels in order to deliver bond-funded projects in a timely manner. Accordingly, the LAO recommends the Subcommittee adopt the following Supplemental Report Language:

2660-001-0042 — Department of Transportation

Upon voter approval of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, the Department of Transportation shall by March 1, 2007 provide the Joint Legislative Budget Committee with a multiyear plan for how it intends to position itself to efficiently utilize bond funds to deliver transportation projects. The report shall:

- *Provide an estimate of the level of personnel resources that will be necessary to deliver transportation capital projects funded by the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. This estimate shall break out required personnel resources by fiscal year through 2010-11.*
- *Indicate the personnel-year-equivalent (PYE) composition, including number of state staff, student assistants, cash overtime, and consultants that the department estimates will be used to deliver these projects. The PYE composition shall be estimated for each fiscal year through 2010-11.*
- *Provide data on the attrition (rate and number) of capital outlay support staff, in particular engineering staff — by month for the 18 months preceding this report.*
- *Provide the department's plan for recruiting, training, and retaining employees with respect to anticipated attrition rates. Specifically, the report shall detail actions that the department will take to attract employees, cost effectively train its new workforce, and minimize attrition rates.*

Staff Comment: Caltrans indicates that the COS budget includes $22.5 million and 217 workload resources (positions, overtime position equivalents, and contract out resources) related to the $105 million in Issue #5 from the prior page. The Subcommmittee should conform the action here to the action on Issue #5 – shift

$22.5 million and 217 workload resources to the Maintenance Program, as applicable.

If the Subcommittee revised the Proposition 42 loan repayment amount in Issue #1 on page 12 and 13, adjustment may be warranted to COS staffing. Staff suggests that the Subcommittee take a budget action to make sure the Senate action differs from the Assembly action so this issue would be open in Conference Committee. Any needed adjustments could be made at that time.

Staff Recommendation: Staff recommends the following three actions:
1. Adopt the LAO Supplemental Report Language
2. Shift $22.5 million and 217 workload units to the Maintenance Program (to conform with the staff recommendation on Issue #5 – if that is the action taken).
3. Reduce the requested funding by $1,000 to put the issue into the Conference Committee.

Vote:

7. **Short Term Congestion Relief Projects (April Finance Letter #6).** The Administration requests funding of $40.3 million (State Highway Account - $30 million one-time and $10.3 million ongoing) and 9.0 positions to complete a number of projects over an 18-month period intended to provide short-term congestion relief in selected locations on the state highway system.

   Detail: The Finance Letter indicates $20 million in one-time funding would be used on the Interstate 210 corridor in Los Angeles ($13.4 million for metering lights, $1.3 million for new detection stations, and $5.3 million for consulting services including design-build). The Department notes this project would be a model for this type of traffic congestion relief strategy, which could later be expanded to other corridors.

   The request includes permanent funding of $6.2 million for the Freeway Service Patrol program. Of the amount requested, $800,000 would be directed to the California Highway Patrol, for their administration of the program (conforming budget action is required for the CHP). The remaining $5.4 million would fund an additional 108,000 tow-truck hours and assist approximately 90,000 motorists. By clearing disabled vehicles more quickly, this program relieves traffic congestion.

   The remaining $14.1 million ($4.1 million ongoing) would fund various statewide projects to replace loop detectors, install changeable message signs, install other signal coordination equipment, and maintain existing equipment.

   Staff Comment: The Department indicates it has changed its implementation strategy since the Finance Letter was released to utilize traditional procurement instead of design-build. According to Caltrans, a statutory amendment would be needed to use design build, and the Department feels this particular project can be implemented at the same cost and within the same timeframe with traditional procurement.

   Staff understands Caltrans now supports revising this proposal to shift $20 million for the I-210 project to the SHOPP appropriation. The SHOPP program would be the more appropriate, and typical, funding process for the project.

   Staff Recommendation: Approve the funding request, but shift the $20 million to the SHOPP appropriation so the I-210 project can be funding through a standard SHOPP allocation from the California Transportation Commission.

   Vote:

8. **Owner Controlled Insurance Program (BCP #9).** The Administration requests an augmentation of $1.4 million (State Highway Account) and 1.0 position to implement the statewide Owner Controlled Insurance Program (OCIP) as a pilot program with 82 projects. With the OCIP, the Department, as the owner of the highway, would purchase major insurance coverage for its construction projects. Under the current process, Caltrans pays insurance costs indirectly through inclusion of the costs in the contractors' bids. The funding of $1.4 million would only cover the cost of hiring a consultant – the cost to purchase the insurance could exceed $120 million (according to the Caltrans) and the total project costs (including construction, staffing, etc.) would be about $5.2 billion. Caltrans believes the $120 million plus in extra insurance costs would be more than offset through lower bids – the savings is estimated to be in the range of $40 million to $65 million.

LAO Recommendations: The LAO finds that "the cost savings that could be realized through an OCIP are much more uncertain than Caltrans indicates." Accordingly, the LAO recommends a smaller pilot and the following budget bill language (note: this is a revised recommendation from what was included in the LAO's *Analysis of the 2006-07 Budget Bill*):

Budget Bill Language Limiting Size of Pilot:
Up to $1.4 million appropriated in this item is available for support of Caltrans' Owner Controlled Insurance Program to administer insurance coverage for contractors on projects with combined total costs not to exceed $750 million.

Supplemental Report Language:
By April 1 of 2007, 2008 and 2009, respectively, Caltrans shall report to the Joint Legislative Budget Committee and the policy committees on transportation on the following:

- *The type and value of projects included in the pilot.*
- *The amount that Caltrans would have paid contractors for comparable insurance coverage in the absence of an owner controlled insurance program (OCIP), as identified in documentation submitted with contractors' bid statements.*
- *The amount the department paid in insurance premiums, deductibles, program administration, and any other OCIP-related costs incurred during the pilot.*
- *The estimated net cost or benefit of implementing the pilot, as identified by comparing contractors' estimates for insurance costs in the absence of an OCIP to the amount the department paid in insurance-related costs under the OCIP.*
- *An assessment of the projects that were best suited for inclusion in an OCIP and the projects that were least well suited, in terms of cost effectiveness.*

Staff Comment: The Subcommittee heard this issue on March 30, and it was kept open so additional information could be provided. Caltrans provided copies of a June 1999 US General Accounting Office report on transportation OCIPs and a July 2003 California Department of General Services report on office building OCIPs.

US General Accounting Office (GAO) Report

The GAO looked a six transportation projects and reported that OCIPs provided savings of 1 to 3 percent of total project costs (according to project owner estimates). The GAO report also included the following findings and/or comments:

- The major advantages of OCIPs include savings from buying insurance “in bulk,” eliminating duplication in coverage, handling claims more efficiently, reducing potential litigation, and enhancing workplace safety.
- The potential disadvantages of wrap-up insurance include requiring project owners to invest more time and resources in administration.
- A limitation of OCIPs is that projects must be sufficiently large, or contain at least a sufficient amount of labor costs, to make wrap-up insurance financially viable.
- Some contractors dislike OCIPs because it reduces a contractor’s profits from insurance rebates.

<u>California Department of General Services (DGS) Report</u>
The DGS looked at State building facilities construction projects and found that OCIPs reduced State costs in the range of 1 to 2 percent.

Staff Recommendation: Approve the request with the LAO recommended budget bill language and supplemental report language.

Vote:

9. **Toll Road In State Park (Staff Issue).** On February 23, 2006, the Orange County Foothill/Eastern Transportation Corridor Authority (TCA), a regional transportation joint powers authority established under state law, approved the South Orange County Transportation and Infrastructure Project (also known as the "Foothill South Toll Road") in the San Juan Capistrano-San Clemente region of the Orange County coastal area.

Background: The proposed project is slated to be built through San Onofre State Park and beach, a state park that is home to a popular surfing spot, adjacent to a Native American heritage site, and one of the few remaining coastal open space areas in Southern California. It consists of a six lane toll road that would bisect the coastal foothills from the Oso Parkway approximately 16 miles to Interstate 5 south of San Clemente.

The state Attorney General and various private parties have brought actions in state court to block the project based on claims that the TCA didn't adequately analyze the environmental impacts and alternatives, and on encroachment of Native American sites. Under current law, both Caltrans and the CTC have design review and federal funding authority over the project. To date, neither entity has taken action relative to the project.

Staff Comment. In view of the controversy over this project, and the intervention of the Attorney General in its approval, the Subcommittee may wish to consider adoption of the following budget bill language:

Staff Recommendation: Approve the following budget bill language.

2600-001-0046—For support of CA Transportation Commission, provided that no federal funds may be approved by the commission for the South Orange County Transportation and Infrastructure Project (also known as the "Foothill South Toll Road") in the San Juan Capistrano-San Clemente region of the Orange County until the Department of Transportation and the Department of Parks and Recreation have prepared, completed, and submitted to the Joint Legislative Budget Committee a report that evaluates alternatives to building the project through a state park.

2660-001-0042-- For support of Department of Transportation, provided that no funding may be expended by the department for the review or approval of any documents, including engineering oversight and the preparation or evaluation of environmental documents, for the South Orange County Transportation and Infrastructure Project (also known as the "Foothill South Toll Road") in the San Juan Capistrano-San Clemente region of the Orange County until the department of Transportation and the Department of Parks and Recreation have prepared, completed, and submitted to the Joint Legislative Budget Committee a report that evaluates alternatives to building the project through a state park.

Vote:

2665 High-Speed Rail Authority

The High-Speed Rail Authority (HSRA) was heard, by the Subcommittee on April 20. Three issues were left open and a May Finance Letter was submitted by the Department.

Discussion / Vote Issue

1. **Bond Funding for High-Speed Rail / 2006-07 Budget.** The enacted infrastructure bond package did *not* include any funding for high-speed rail; however, it did *not* remove the existing $9.95 billion rail bond from the November 2006 ballot. Staff understands that discussions are ongoing concerning legislation to postpone the high-speed rail bond vote to 2008 or thereafter. Therefore, uncertainty continues on the appropriate budget for the HSRA in 2006-07.

   Staff Comment: Given the uncertainty related to bond funding for the high-speed rail project, it is difficult to assess the HSRA budget need for 2006-07. The following are some scenarios for HSRA activity and funding:

   - Governor's Budget ($1.3 million) – removes one-time funding, but doesn't further evaluate or "zero-base" the continuing activity for the HSRA.
   - Zero-Based Budget ($1.0 million) – rebases the HSRA budget to remove operating expenses and equipment funding that would not seem necessary if the HSRA is not directed to perform new activities. The HSRA indicates a Inter-departmental Consulting need of about $350,000 (for Attorney General services and budget and accounting services), which is $232,000 less than what is included in the budget. Additionally, postage, travel, and other operating expenses are budgeted significantly higher than actual 2004-05 expenditures. The HSRA indicates they have increased the scope of the tier II EIR/EIS, and this is driving up costs beyond what was originally approved by the Legislature – they propose to redirect operating expenses for this purpose.
   - Next Steps to Construction ($1.3 million plus) – Staff understand that discussions concerning postponement of the 2006 bond vote have also included options for additional non-bond funding for the HSRA.

   LAO Recommendation: The LAO recommends adding provisional budget language that would revert any unexpended 2006-07 appropriation upon enactment of legislation that would postpone, indefinitely, a high-speed rail bond.

   Staff Recommendation: Reduce the HSRA budget by $1,000. (This will place the HSRA into Conference Committee – more information on the 2006 high-speed rail bond may be available in a couple of weeks).

   Vote:

2720 California Highway Patrol

The Department of the California Highway Patrol (CHP) was heard, by the Subcommittee on April 20. Three issues were left open and a May Finance Letter was submitted by the Department.

Vote-Only Issues

1. **Freeway Services Patrol – Reimbursement (April Finance Letter).** The Administration requests an ongoing increase in reimbursement authority of $800,000 to reflect the CHP's component of the Department of Transportation's (Caltrans) Freeway Services Patrol program. Coinciding with this request, Caltrans April Finance Letter #6 is requesting an increase in expenditure authority of $6.2 million to expand the program.

   Staff Comment: The Caltrans request includes permanent funding of $6.2 million for the Freeway Service Patrol program. Of the amount requested, $800,000 would be directed to the California Highway Patrol, for their administration of the program. The remaining $5.4 million would fund an additional 108,000 tow-truck hours and assist approximately 90,000 motorists. By clearing disabled vehicles more quickly, this program relieves traffic congestion.

   Staff Recommendation: Conform to the vote taken on Caltrans Issue # 7 on page 20, but also modify the CHP request to authorize 5 positions, so the workload can be accomplished by dedicated officers instead of overtime resources.

   Vote:

2. **Elihu Harris State Building – Reimbursement (May Finance Letter).** The Administration requests an ongoing increase in reimbursement authority of $509,000 to reflect the CHP's component of the Department of General Services (DGS) security upgrade at the Elihu Harris State Building in Oakland. Coinciding with this request, a DGS May Finance Letter is requesting an increase in expenditure authority of $1.1 million in 2006-07 and $949,000 ongoing.

   Staff Comment: On March 28, 2006, the CHP updated the Site Security Assessment of the Elihu Harris Building. The new security recommendations include the installation of magnetometers and x-ray equipment as well as having a visible presence of uniformed CHP officers to oversee the current staff of security guards.

   Staff Recommendation: Conform to the vote taken on DGS's May Revise Letter.

   Vote:

Discussion / Vote Issues

1. **Additional 9-1-1 Call Center Dispatchers (BCP #7).** The Administration requests $6.4 million (Motor Vehicle Account) for the partial-year cost of 173 new positions to staff the 9-1-1 call centers – specifically, 156 Public Safety Dispatcher II positions and 17 Supervisor positions are requested. Full year cost for these positions in 2007-08 would be $10.5 million.

   Detail: In additional to the 173 positions, the BCP indicates that the Department may need to add an additional 156 positions in 2007-08. The base level of Dispatcher/Supervisor staffing is 325. <u>The CHP indicates that the authority for the additional 156 positions in 2007-08 is not included in this request; therefore, a separate BCP will be submitted next year if the Administration decides to move ahead with the full staffing plan</u>.

   August 2004 State Auditor's Report: The State Auditor touched on 911 staffing in its report, *Wireless Enhanced 911: The State Has Successfully Begun Implementation, but Better Monitoring of Expenditures and Wireless 911 Wait Times is Needed*. The Auditor had the following four findings related to the CHP:

   - Most CHP centers do not have systems to monitor how long they take to answer 911 calls, and more than half the centers that tracked wait times did not meet the State's goal to answer 911 calls within 10 seconds. (Staff note: the CHP has had call tracking technology at all of its 911 call centers since November 2005).
   - Wait times were high, in part, because dispatchers at CHP centers handled significantly more 911 calls per dispatcher than did local answering points we contacted.
   - Unfilled dispatcher positions at CHP centers contributed not only to longer wait times but also to significant overtime costs for the CHP.
   - The CHP does not expect the number of wireless 911 calls diverted to local answering points to exceed 20 percent statewide.

   LAO Recommendation: The LAO now recommends approval of this request - In the February *Analysis of the 2006-07 Budget Bill*, the LAO recommended that the proposal for new call center staff be held open, and that the Administration resubmit the proposal with the May Revision. The LAO suggests the new proposal be based on the automated call-accounting data for all medium and large centers and that other center-dependent variables also be taken into consideration. The CHP has since submitted updated call center detail that provides additional justification for the Finance Letter request.

   Staff Recommendation: Approve the request.

   Vote:

2. **Enhanced Radio Communications (BCP # 2).** The Administration requests approval of a five-year project with a total cost of $494 million (all Motor Vehicle Account, $57.1 million would be expended in 2006-07) to replace the CHP's radio communications hardware and software.

Detail / Background:

- **Identified Problem:** The CHP indicates its current radio system is 25 years old and replacement parts are not available because they are no longer being manufactured. Additionally, the CHP cannot custom order new parts because the system is proprietary. The identified risk of keeping the existing system is communications outages when equipment fails. To the degree failed equipment is replaced with new technology on an ad-hoc basis, new risk is created for communication breakdowns between new and old technologies. Another identified problem is that the current system constrains the addition of new frequencies to improve operability (within the CHP) and inter-operability (CHP communications with other State, federal and local entities).
- **Improvements with the Proposed System:** The Department indicates the proposed system would use open architecture and proven technology, and there is little risk the system would not work. Additionally, the CHP cites the following improvements with the proposed systems:
  - Allow Communications Centers to separate the emergency and non-emergency operations during peak and critical times.
  - Enable radio interoperability with other public safety agencies without impacting normal patrol operations.
  - Provide the Communications Centers the ability to communicate with any CHP mobile unit anywhere in the state.
  - Allow for additional operational channels for radio interoperability with allied agencies.
  - Provide Officers the ability to communicate at a greater distance away from their enforcement vehicles (from 400 to 500 feet to one to two miles with the new system).
- **Implementation Strategy**: The BCP identifies four main categories of activity over the five-year implementation:
  - Replace patrol vehicle equipment at the pace of two districts per year beginning in 2006-07. The annual cost is approximately $34 million ($167 million total).
  - Replace portable equipment in three years, beginning in 2006-07. The annual cost is approximately $16 million ($50.1 million total).
  - Replace tower equipment and erect new towers. The Department of General Services would assess this need in 2006-07 along with other oversight activities at a cost of $6 million. New equipment would be purchased and installed in 2007-08 through 2010-11 at a total cost of $211 million.
  - DGS design and oversight. The five-year cost is estimated at $66 million.

- **Statewide Strategic Communications Plan:** The State has been working for over a decade to design a comprehensive emergency-communication system. In 1994, the CHP, along with nine other public safety agencies and the Department of General Services (DGS), initiated a study called Public-Safety Radio Integrated Systems Management (PRISM). The PRISM effort produced a cost estimate of $3.5 billion in 1997. The high cost delayed action and technology continued to change. Currently, the Office of Emergency Services chairs the Public Safety Radio Strategic Planning Committee (PSRSPC). In January 2006, the PSRSPC released a status report which is the “first phase in the strategic plan for a newly envisioned statewide approach.” The January report supports a phased approach with “immediate stop-gap solutions,” including the CHP’s proposal. The PSRSPC will release the new Statewide Strategic Plan in January of 2007. However, the Office of Emergency Services indicates that the January 2007 plan will not conflict with this year’s CHP request.
- **Risks and Unknowns:** In addition to the risks associated with maintaining the current CHP system, there are risks and unknowns associated with the proposed system.
  - The system is not classified as an “IT system” and therefore a Feasibility Study Report (FSR) was not prepared. The technical detail provided to date does not match that of an FSR.
  - The CHP has contracted out with a private vendor to examine the proposed enhancements and sample a limited number of towers and equipment. This review is not expected to be completed until April 28, 2006. The conclusions of the review could result in changes to the plan and cost estimates.
  - The BCP indicates the cost of new towers and new tower equipment will be $210 million; however, DGS will not complete a full survey of the approximately 300 remote radio sites until the end of 2006-07. Therefore the $210 million cost estimate is subject to change.

Staff Comment: The CHP’s existing system is old, risks failure, and inhibits improvements. There are also multiple risks and unknowns with the proposed system, which may alter cost estimates in the future. The Subcommittee may want to add budget bill language that would require annual reporting as the project is implemented. Review of this project has brought to light that public-safety radio communications projects are exempt from the State’s information technology reporting requirements – such as a Feasibility Study Report (FSR). The Subcommittee may want to adopt placeholder trailer bill language to require FSR-type document for future radio communications projects. The placeholder language additionally cites the intent of the Legislature that Public Safety Radio Strategic Planning Commission reviews the plans for consistency with Statewide Integrated Public Safety Communications Strategic Plan. The suggested language for both is under the Staff Recommendation on the following page.

LAO Recommendation: The LAO has identified an estimating error that overstates 2006-07 costs by $760,000 for the Independent Verification & Validation (IV&V) vendor. The Administration concurs with the need for this correction.

Consultant Draft Report: The CHP recently provided a draft report from Westin Engineering Inc., which evaluates the CHP's radio plan. The report appears to generally support the project. It did, however, raise some cost concerns. Westin assessed ten radio towers and found that, there is insufficient room in most of the radio vaults and on most of the towers currently being used by the CHP. And, most of the existing towers are not tall enough to provide the vertical separate between antennas. This raises concerns over the cost estimates and timelines for work related to remote site vaults and towers. The CHP may be able to provide additional information on this issue by the time of the hearing.

Staff Recommendation: Approve the request but reduce the amount by $760,000 to correctly budget for the Independent Verification & Validation vendor. Additionally, adopt budget bill language to require annual reporting for this project, and placeholder trailer bill language to require a technical project plan for future public-safety radio communications projects.

Budget Bill Language:
Provision (1) of Item 2720-001-0044: Of the amount appropriated in this item, $56,380,000 is for 2006-07 costs of the California Highway Patrol Enhanced Radio System. On March 1, 2007, and annually thereafter until the project is fully implemented, the department shall report to the appropriate fiscal and policy committees of the legislature and the Legislative Analyst on the status of the project. At a minimum, the report shall include: (a) a revised estimate of total project costs and activities, by fiscal year, including separate reporting on the categories of mobiles, portables, remote site equipment, Department of General Services costs, and other; (b) a description of any changes in the project scope included the type and number of hardware units needed, and changes to the frequencies used; and (c) a description of any adverse affects to interoperability caused by changes in usage of new technology by local agencies or other state agencies.

Placeholder Trailer Bill Language:
Public safety radio systems are technical in nature, and require adequate planning to ensure (a) responsiveness to a department's operational needs, (b) compatibility with statutory equipment standards, (c) consistency with the statewide interoperability strategic framework, and (d) appropriate project management and cost controls. Any proposal for state funding to support a new or modified radio system should be accompanied by a technical project plan that includes the following: scope of the project, alternatives considered, justification for the proposed solution, project implementation plan, proposed timeline, and estimated costs by fiscal year. The Public Safety Radio Strategic Planning Committee shall review the plans for consistency with Statewide Integrated Public Safety Communications Strategic Plan. The Department of General Services, Telecommunications Division, shall review the plans, from a technical basis, for consistency with the Statewide Integrated Public Safety Communications Strategic Plan.

Vote:

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affairs Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns.

The issues listed below are cross-cutting issues that involve multiple Boards or Bureaus. Issues that relate to a single Board or Bureau are discussed under the heading of the individual Board or Bureau in the pages that follow.

Discussion / Vote Issues

1. **iLicensing Information Technology Project (BCP #1, April Finance Letter, Control Section 4.55).** The Administration requests $11.2 million over four years for an IT project with a total cost of $14.3 million (including redirected funds of $3.1 million and credit card processing fees of $1.4 million). Additionally, the Department requests 8.0 permanent positions for the project (increasing to 13 positions in 2008-09). The project would replace the existing on-line Professional Licensing system with a new iLicensing system. The existing system serves seven DCA licensing entities, but cannot be expanded to include the remaining 31 programs. The April Finance Letter adjusts the 2006-07 funding and positions to tie to an updated project schedule. Additionally, the Finance Letter requests to delete proposed Control Section 4.55, which provides authority to distribute costs and adjust Board and Bureau budgets for the cost of the project – instead, Board and Bureau budgets would be individually adjusted in the budget bill.

   Detail: The Feasibility Study Report (FSR) notes that DCA receives over 300,000 applications for professional licensure each year. Seven of 38 DCA licensing entities allow applicants to apply on-line, while the remaining 31 entities use paper applications. The on-line system would speed notification to initial applicants concerning whether their application is complete or deficient. The FSR indicates renewal applicants are anticipated to see a reduction in processing time from about 5 weeks to approximately 7 days. The Department of Finance letter approving the FSR notes that this project has an oversight criticality rating of "high."

   The FSR lists benefits including processing efficiencies that reduce staff hours by about 26,500 hours, which would translate into a staff reduction of about 15 clerical positions. The BCP requests 13.0 new permanent positions (added over two years) for information technology functions. However, no future staff reductions are associated with this proposal because the DCA indicates clerical staff would be redirected to other backlogged projects or workload growth, and IT staff may be needed on an ongoing basis.

   The Finance Letter also requests budget bill provisional language (note, the below language has been slightly revised from what was in the Finance Letter, but revisions are supported by the Department of Finance):

Provision 2. The Department of Consumer Affairs shall report to the Department of Finance and the Joint Legislative Budget Committee at the conclusion of the iLicensing project, but no later than September 1, 2009, on the status of the project including implementation by boards and bureaus, funding allocations, preliminary usage information among new/existing licensees, and a workload analysis for the positions established to support this project. The Department of Finance may eliminate any position established in the 2006 budget, which supports the iLicensing project, if the workload cannot be justified by the report. In addition, in no case may a fee increase be imposed to support this project.

Staff Comment: As noted in the “Detail” section above, the FSR indicates efficiencies savings of over 26,000 staff hours. This efficiency savings comes from applicants using web-based systems to apply, receive information, and submit payments. At the level of 26,000 hours of saved time, the project might produce ongoing cost savings in the range of $1.0 million. This issue was discussed at the May 10 hearing and the issue was left open. The Administration is agreeable to adding the following budget language to try to capture the efficiency savings in the future budgets:

Provision 3. In recognition of operational efficiencies resulting from the implementation of the iLicensing information technology project by participating boards, bureaus, and divisions at the Department of Consumer Affairs, a Department-wide budget reduction in the amount of $500,000 (special funds) will be effectuated in FY 2009-10 and ongoing. However, to the extent that additional resources are needed to protect California consumers, boards, bureaus, and divisions may pursue budget augmentations through the annual budget process.

Staff Recommendation: Approve the April Finance Letter request, with the addition of budget bill provision 2 and provision 3. (Approval would include deletion of Control Section 4.55 and other related changes to the budgets of specified Boards and Bureaus).

Vote:

1880 State Personnel Board

Discussion / Vote Issues

1. **Examination and Certification Replacement Project (April Finance Letter).** The Administration requests 2006-07 funding of $2.5 million (General Fund) and 2 positions (1 permanent and 1 limited term) for an information technology project to replace the State's Exam and Certification system. The Feasibility Study Report (FSR) identifies total project funding of $5.3 million over four years, with continuing costs in 2009-10 and thereafter at $553,000.

   Detail / Background: The State Personnel Board (SPB) currently provides an automated examination system to subscribing departments and issues certification lists of individual's eligible to be hired into specific classifications within State departments. The examination process determines which applicants are qualified for specific classifications. The certification process refines the eligible list based on job specific categories.

   The Current Examination and Certification system was built over 30 years ago and has been updated sporadically to comply with legal requirements. The FSR indicates that "due to California's heavy dependence on the existing aging systems, accompanied by the steady rise in maintenance activities and the retirement of experienced support personnel, the greatest risk to merit-based civil service in the State of California results from not replacing the current system."

   The SPB contends that this new system will provide easy access, rapid turnaround, make examinations more automated, and perform pre-screening of applicants so the neither their time, nor state staff time, are wasted on applicants that cannot meet the minimum qualifications.

   Staff Recommendation: Approve the request.

1920 State Teachers' Retirement System

The State Teachers' Retirement System (CalSTRS) was heard, by the Subcommittee on March 20. One issue was left open and one May Finance Letters was submitted by the Administration.

Discussion / Vote Issues

1. **Submission of Budget Information.** CalSTRS, in the past, submitted Budget Change Proposals (BCPs) in January with other State departments. This year, no BCPs were submitted. Staff requested BCP documents, which were provided, but they contain less fiscal and narrative detail than a typical BCP.

   Staff Comment: This issue was heard at the March 22, 2006, hearing and left open. CalSTRS has since indicated that it will provide standard Budget Change Proposals (using Department of Finance Budget Form "DF-46" or its successor) next January 10th, and thereafter. The BCPs will be provided to the Consultants in the Senate and Assembly Budget Committees, minority fiscal Consultants, and the Legislative Analyst, through the Department of Finance.

   Staff Recommendation: No action is necessary – CalSTRS has agreed to provide standard BCP documents next year and thereafter.

2. **Technical Corrections (May Finance Letter).** The Administration requests a decrease of $119.5 million to the CalSTRS General Fund appropriation to correct for an error recently discovered in the CalSTRS accounting system, which resulted in the State overpaying CalSTRS by a net of $119.5 million above the statutory formulas in 2003-04 through 2005-06. Trailer bill language is requested to implement this proposal. Additionally, the Administration requests $882,000 reduction to the CalSTRS General Fund appropriation to reflect CalSTRS revised estimate of teacher compensation.

   Staff Comment: Staff understands that CalSTRS requested the State Controller's Office to implement a similar payment adjustment administratively.

   Staff Recommendation: Approve the request.

   Vote:

Department of Personnel–Related Public Employment Issues

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) was heard by the Subcommittee on March 20. One issue was left open and one May Finance Letters was submitted by the Administration.

Vote – Only Issue

1. **Human Resource Management System – 21st Century Project (April Finance Letter).** The Administration requests a decrease in the Department's 2006-07 budget of $48,000 (reimbursements) for the to reflect an adjusted workload estimate for the Human Resource Management System – 21st Century Project, which is primarily managed and staffed by the State Controller's Office (SCO). The Finance Letter also requests to convert seven one-year limited term positions to two-year limited term. Approval of this request would reduce the 2006-07 funding from $631,000 and 8.0 positions to $583,000 and 7.0 positions.

   Staff Comment: The Subcommittee approved the related SCO request on May 11.

   Staff Recommendation: Conform to action taken SCO – Approve the request.

   Vote:

Discussion / Vote Issues

2. **Salary Survey Budget Language.** In last year's Conference Committee, the Administration proposed and the Legislature approved $573,000 to fund surveys comparing the total compensation of state workers with those of other public sector and private sector workers. The Department of Personnel Administration released a "preliminary report" on total compensation on April 21, 2006. The report indicates that the administration intends to continue conducting surveys and research concerning total compensation.

   LAO Recommendation: The LAO recommends that the Legislature adopt budget bill language similar to that included in the 2005 Budget Act. The LAO suggests the following provisional language for the Department of Personnel Administration, Item 8380-001-0001:

   The Department of Personnel Administration may use funds appropriated in this item to complete comprehensive salary surveys that include private and public employers, geographical data, and total compensation. The department shall provide to the appropriate fiscal and policy committees of each house of the Legislature and the Legislative Analyst, within 30 days of completion, each completed salary survey report.

   Staff Comment: Staff understands the Administration does not object to the language.

   Staff Recommendation: Approve the LAO language.

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for those costs that exceed the baseline costs already included in individual department budgets. This budget item was heard by the Subcommittee on March 20 and was kept open pending the May Revision.

Discussion / Vote Issues:

1. ***Plata v. Schwarzenegger* Lawsuit (Governor's Budget and May Revision).** The Governor's Budget requested funding of $68 million ($57 million General Fund) to increase the pay of State-employed doctors and nurses. A May Revision Letter requests a General Fund increase of $25.2 million and a special fund decrease of $10.7 million based on new Department of Personnel Administration (the new totals are $82.4 million General Fund, $340.000 Special Fund). The *Plata* case concerns constitutional violations related to medical care in State correctional facilities. On December 1, 2005, the federal judge in the case ordered the State to immediately increase compensation for several classes of prison medical personnel. While the Administration must comply with *Plata* for the Department of Corrections and Rehabilitation, the Administration has made a discretionary choice to extend the same salary increases to doctors and nurses in the Department of Mental Health.

   Staff Comment: The Legislature has approve section letters to increase funding in 2005-06 related to *Plata* costs at both the Department of Corrections and Rehabilitation and the Department of Mental Health.

   Staff Recommendation: Approve the Governor's Budget and May Revision funding related to the *Plata* lawsuit.

   Vote:

2. **Adjustments based on Contractual Provisions (May Finance Letter).** The Administration requests the following budget augmentations that related to existing contractual obligations as agreed to between bargaining units and the Administration, and adopted by the Legislature through implementing legislation:
   - An increase of $8.4 million ($8.2 million General Fund) for health care costs (Unit 7 – California Union of Safety Employees, and Unit 18 – California Association of Psychiatric Technicians).
   - An increase of $47.5 million (General Fund) for salary increases (Unit 6 – California Correctional Peace Officers Association).
   - An increase of $7.8 million (special Fund) for salary increases (Unit 5 – California Highway Patrol).

   Staff Recommendation: Approve the request.

   Vote:

3. **Transfer Authority between 9800 Budget Items (April Finance Letter).** The Administration requests the addition of budget bill language to allow the transfer of appropriation authority between the Special Funds appropriation and the Non-Governmental Cost Funds appropriation. This action would not permit increasing the overall amount appropriated for employee compensation but would allow the Department of Finance to avoid submitting section letters to the Legislature when the appropriations do not match department requests by fund type.

   Staff Recommendation: Approve the request.

   Vote:

CalPERS–Related Public Employment Issues

1900 Public Employees' Retirement System

The Public Employees' Retirement System (CalPERS) was heard by the Subcommittee on March 20 and was kept open pending budget changes with the May Revision.

CalPERS also determines the rates for Budget Item 9650 – Health and Dental Benefits for Annuitants, and Control Section 3.60 – The State's Retirement Contribution Rates. These two budget items will be heard directly after the CalPERS budget.

Vote only issues:

1. **GASB 45 Compliance (April Finance Letter):** CalPERS requests one-time funding of $2.9 million (special fund) to assist contracting agencies comply with the requirements of Governmental Accounting Standards Board Statement Number 45 (GASB 45). GASB 45 requires public employers to calculate and report Other Post-Employment Benefits (OPEB) liabilities, such as unfunded retirement healthcare liabilities, in financial reports. CalPERS will assist contracting agencies by providing the health data necessary to complete the health actuarial valuation necessary to calculate their health benefit liability. The assistance would be provided through external consulting services – no new state positions are requested.

   Staff Recommendation: Approve the request.

   Vote:

2. **Adopted Board's Budget (May Finance Letter):** CalPERS requests various budget adjustments to reflect the final budget adopted by the Board. With the exception of certain health-related appropriations, the rest of CalPERS state operations budget is continuously appropriated and included in the budget bill only as a "non-add" for informational purposes. The requested adjustments only affect the "non-add" budget appropriation and would update the budget bill to accurately reflect the Board-adopted CalPERS budget. The adjustments net to an increase of $9.3 million, and with the April Finance Letter Requests, result in a total state operations budget of approximately $268 million.

   Staff Recommendation: Approve the request.

   Vote:

Discussion / Vote Issue:

1. **Medicare Part D Positions (April Finance Letter):** CalPERS requests permanent funding of $439,000 to establish 5.5 positions and one-time funding of $50,000. These positions would address CalPERS workload related to implementing Medicare Part D, which is the federal program that established a prescription drug benefit for Medicare eligible individuals. This request will allow CalPERS to process requests for nearly 96,000 Medicare Part D eligible members and will generate approximately $54 million in federal subsidies for the benefit of state and contracting agencies.

   LAO Recommenation: The LAO recommends that CalPERS' Medicare Part D staffing finance letter be sent to Conference. At this week's CalPERS board committee meetings, board members will consider a staff recommendation for the system not to apply for Part D employer drug subsidies after 2006. This would mark a significant change in policy from that contemplated in the finance letter and from that envisioned by the Legislature when it enacted legislation (Chapter 527, Statutes of 2005 [AB 587, Negrete McLeod]) concerning Part D enrollment by CalPERS members.

   The federal government created the Part D subsidies to encourage employers, such as the state, to continue offering drug benefits to retirees, and this possible action by CalPERS could deny the Legislature of the ability to use approximately $39 million in annual Part D subsidy revenues in the manner it sees fit. One possible use for these funds would be to reduce the state's unfunded retiree health care liability. Credits for future Part D subsidies reduced the State of Maryland's reported unfunded retiree health liability by 11 percent; for the State of California, this could potentially translate into billions of dollars of unfunded liabilities.

   By conference, we should know the disposition of the CalPERS board toward this staff recommendation and the administration's revised proposal, if any, based on the possible change in policy. We believe that budget bill language may eventually be advisable to guide the use of any staff resources.

   Staff Comment: Assembly Subcommittee 4 has already approved this letter. Approving this request with a funding reduction of $1,000 would put this issue into Conference.

   Staff Recommendation: Approve the Finance Letter minus $1,000 to put this issue into Conference.

   Vote:

9650 Health and Dental Benefits for Annuitants

The Health and Dental Benefits for Annuitants budget item provides the State's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with requirements of Government Code. The cost of this benefit is estimated by the California Public Employees' Retirement System (CalPERS). The budgeted amount is $1.0 billion (all General Fund – although the State recovers about one-third of these costs from special funds through pro rata charges) – an increase of $124.2 million (14 percent) from the current year. According to the LAO's *Analysis of the 2005-06 Budget Bill*, the increase reflects growth of 4.7 percent in enrollment and growth of 9.5 percent in health care inflation.

According to CalPERS, this expenditure forecast will be updated in June, after contract negotiations with health plans are completed. The budget bill is updated to reflect the new estimates through a Department of Finance technical correction, upon approval by the Legislature.

Staff Recommendation: Approve as budgeted.

Vote:

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

The California Public Employees' Retirement System (CalPERS) agenda for the May 16 Benefits and Program Administration Committee includes the new State retirement contribution rates for 2006-07. The new rates represent an increase of $182 million in State costs relative to the amounts assumed with the Governor's Budget. The exact General Fund share is not available from the Administration; however, the LAO indicates that based on typical proportions, the General Fund share may be about $100 million. These costs were not included in the May Revision of the Governor's Budget.

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in CalPERS. This Control Section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform to changes in these rates. The Governor's Budget estimated the State's contributions to CalPERS in 2006-07 at $2.5 billion ($1.4 billion General Fund) – an increase of $54 million over 2005-06.

Category	Governor's Budget	New Rates
Miscellaneous, First Tier	15.942%	16.997%
Miscellaneous, Second Tier	15.890%	16.778%
State Industrial	17.147%	17.861%
State Safety	19.026%	19.294%
Highway Patrol	26.396%	31.463%
Peace Officer / Firefighter	23.563%	24.505%

Staff Comment: These rates will not be officially approved until approved by the full board on May 17. Since final action by the CalPERS Board and the resulting detail from the Administration will not be available during the subcommittee process, Staff recommends the Subcommittee take action to keep put this issue into Conference. Recommend adopting the new rates (the Assembly is expected to adopt the Governor's Budget rates)

Staff Recommendation: Approve the Control Section with the new rates indicated in the above table.

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom McClintock
Christine Kehoe

Agenda – Part A

Thursday, May 18, 2006
9:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

May Revision and Open Issues – Select Departments

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

2400 Department of Managed Health Care

The Department of Managed Health Care (DMHC) was heard by the Subcommittee on May 17 and the following two issues were left open.

Issues for Discussion / Vote

1. **Provider Oversight Program (BCP #1).** The Department proposes to augment funding by $3.8 million and 17 positions to conduct financial solvency oversight of Risk Bearing Organizations (RBOs) and ensure prompt and sufficient payment of health care provider claims. The positions would staff the proposed Office of Provider Oversight, which would include a Provider Solvency Unit, a Provider Complaint Unit and an associated Provider Oversight Management Group.

   Background: SB 260 (Chapter 529, Statutes of 1999, Speier), established the Financial Sovency Standards Board (Board) and placed certain financial standards on RBOs and required DMHC to adopt related regulations.

   AB 1455 (Chapter 827, Statutes of 2000, Scott) established new requirements for prompt and fair payment of provider claims by health plans, and authorizes DMHC to impose sanctions on a plan when an unfair payment pattern is found.

   Staff Comment: The Subcommittee heard this issue on May 17 and the Chair requested that DMHC convene a meeting with all interested stakeholders to find resolutions on the issues of establishing an independent dispute resolution process (IDRP), balance billing, and budget trailer bill language.

   The DMHC did convene the meeting and summarizes the outcome as follows:

   > After about a 31/2 hour discussion, it was agreed that it was not possible to resolve balance billing and address issues surrounding an IDRP in less than 24 hours and the following agreement was reached and agreed to by everyone:
   >
   > 1. Trailer bill language will be dropped.
   > 2. The DMHC will work with all stakeholders on performance metrics for the Provider Complaint Unit over the next few months.
   > 3. All stakeholders will continue to work towards resolution on prohibiting balance billing and an IDRP.
   > 4. All parties are supportive of the DMHC's BCP request for 6 positions to staff the Provider Complaint Unit and the DMHC's other open budget items.

   Staff Recommendation: Approve the Administration’s staffing request – do *not* adopt any trailer bill language. (This is the action recommended by the stakeholders who participated in May 17 meeting).

   Vote:

2. **Health Plan Oversight Division Staffing (May Finance Letter):** The Administration requests the addition of 10.0 permanent positions and 2.0 limited-term positions to be funded within existing budgeted resources. The request would continue most of the 13.0 administratively-established positions added in 2005-06. The 12.0 requested positions would increase staffing in the Health Plan Oversight Division to a total of 36.9. The Department indicates these positions are needed to continue efforts to improve the review of required health plan filing submissions in order to meet market and industry demands and to provide appropriate oversight necessary for DMHC to fulfill its statutory responsibilities.

March 8 Hearing. At the March 8 hearing the Subcommittee reduced the DMHC budget by $1.0 million (special fund) because the Department appeared to be over-budgeted for authorized positions. The Governor's Budget display titled "Changes in Authorized Positions" indicated that 13.0 positions were administratively added to the Department's budget in 2005-06. Pursuant to Budget Control Section 31.00, the Administration does have the authority to add positions within the same fiscal year if the budgeted resources are sufficient. To continue the positions beyond a fiscal-year, departments must submit a BCP or Finance Letter request (as specified in Control Section 31.00). A full-year cost for the 13 added positions is approximately $1.0 million. Since DMHC was able to fund 13.0 positions within existing budget resources, and the Department did not request the continuation of the positions in a BCP, it appeared that the 2006-07 budget was over-appropriated by about $1.0 million. The Subcommittee expressed a willingness to consider a restoration of the funding, if a Finance Letter was submitted to justify the need.

Detail: The Department indicates that approval of this request would allow the department to meet the following benchmarks:

- Reduction in approval time for new license applications from over 1 year to six months or less.
- Reduction in approval time for material modifications of plan operations from over six months to 90 days or less.
- Reduction in approval time for new product filings by amendment from four months or more to under 60 days.

LAO Recommendation: The LAO recommends that one of the requested 12 positions be rejected due to lack of justification – specifically the Health Program Manager II position. This is an additional management position beyond what was administratively established in 2005-06 and the two supervisors should be sufficient.

Staff Recommendation: Consistent with the LAO recommendation, approve all requested positions except the Health Program Manager II, and restore the $1.0 million the Subcommittee cut on March 8.

Vote:

2740 Department of Motor Vehicles

The Department of the Motor Vehicles (DMV) was heard by the Subcommittee on April 20. One issue was left open and two May Finance Letters were submitted by the Department.

Discussion / Vote Issues:

1. **Information Technology Modernization (Finance Letter #4).** The Administration requests 2006-07 funding of $2.1 million (various special funds) to begin an information technology modernization project with a total cost estimated at $242 million. <u>While the Finance Letter is not explicit on this point, the DMV indicates that the current request would cover only year one. Expenditures beyond 2006-07 would require approval of a BCP next year for 2007-08</u>.

   Detail / Background: The DMV indicates it will take a multi-year incremental approach with "modular" progress – the intent is to migrate existing functions over to the new system over time such that some benefits are realized sooner and risk is reduced. The following are problems and solutions are noted in the FSR:

   - **Limitations of the existing system:**
     - **a.** Obsolete technical architecture – the existing system is a 40-year-old DMV-designed system which is "increasingly complex and difficult to maintain."
     - **b.** Scarce system support resources – the existing system relies on expertise in obsolete programming languages which are no longer taught in schools and language-proficient staff are nearing retirement.
     - **c.** Difficult for DMV to accommodate mandated changes – it will be increasingly difficult to modify the system for enhancements and mandated programs.
     - **d.** System limitations place California at risk – the existing system places California at risk from an inability to provide timely data to federal and state entities responsible for enforcing laws and protecting the public.
   - **Proposed solution:**
     - **a.** Migrate user interface platforms to a centralized, Java-based, web-server architecture and migrate applications to proven industry-standard commercially-available software applications that are currently supported by the Department of Technology Services Data Center.
     - **b.** Incrementally upgrade the technology by identifying "logical threads," such as: (1) vehicle registration renewals; or (2) personal identification cards; which would be converted to the new platform as individual modules. Individual modules would be completed and operational over a number of years.
     - **c.** The proposed solution would address the limitations of the existing system listed above.

   Staff Comment: Given the magnitude of this project and the difficulties the Department has experienced with past IT projects, the Subcommittee may want to consider the following reporting language supplied by the LAO:

<u>Provision (_) of Item 2740-001-0044:</u>

(a) Funding provided in items 2740-001-0042, 2740-001-0044, and 2740-001-0064 in the amounts of $114,000, $1,173,000, and $848,000 respectively, shall be made available for expenditure on the Information Technology Modernization project only if an Independent Verification and Validation (IV&V) contractor is in place before release of a Request for Proposals to review and validate the proposed contract statement of work including requirements, deliverables, and associated pay points, as well as to help develop a Contract Management Plan.

(b) Prior to project initiation, the Department of Motor Vehicles (DMV) will provide the Department of Finance (DOF) with a detailed Project Plan that reflects project phases including estimated cost per phase, phase activities, and scheduled phase duration. Over the life of the project, DMV will meet with DOF monthly to report project status. The DOF will approve the project's expenditures and progression to each subsequent phase based on its evaluation of the information reported. Regarding the project's status, at the minimum, information reported by DMV to DOF shall include: (1) Planned milestone completion dates versus actual milestone completion date; (2) Planned expenditures by phase versus actual expenditures; (3) Description of adherence to scope and reasons for any changes.

(c) By January 1 of each year until 2014, DMV shall report to the Joint Legislative Budget Committee and the policy committees on Transportation on the following concerning the Information Technology Modernization project: (1) Planned milestone completion dates versus actual milestone completion date; (2) Planned expenditures by phase versus actual expenditures; (3) Description of adherence to scope and reasons for any changes.

Staff Recommendation: Approve the request with LAO reporting language.

Vote:

2. **Real ID (May Finance Letter #1).** The Administration requests 2006-07 funding of $18.8 million and a net decrease of 32.5 positions to begin the planning, programming, infrastructure development and associated ongoing costs necessary for implementing the federal Real ID Act (Public Law 109-13). Funding of $8.7 million is requested for 2007-08 and $2.5 million is requested for 2008-09. This request includes new staff to form a Real ID planning office and three information technology (IT) efforts. One of the IT projects is expected to reduce manual processing, which is the reason for the net staffing reduction:

   Background / Detail: The Subcommittee held a special oversight hearing on February 23, 2006, concerning the federal Real ID Act (Act) and the changes the State will face in meeting all the federal requirements. The DMV updated the Subcommittee on Real ID efforts during the April 20 hearing. This Finance Letter would prepare the Department for implementation of Real ID by May 11, 2008, by doing the following (dollars represent 2006-07 expenditures):

   - Implement a Real ID Program within DMV ($3.8 million) that would utilize a combination of DMV staff and consultants to ensure compliance with the Act. A total of 12 new positions and related consultants would cover the functions of: (1) the Program Director's Office; (2) Program Development; (3) Community Outreach; (4) Facilities Management; and (5) Information Security.
   - Implement through IT improvements the known components of Real ID ($1.0 million): (1) Collect, capture, store, and retrieve an expanded true full name; (2) Integrate the expanded name field into DMV's technical environment; (3) Increase DMV network capabilities for increased size due to Real ID requirements that are known and/or anticipated at this time; and (4) Minimize disruption to, and protect the integrity of, existing processes and systems.
   - Develop the Integration Capacity to Implement Real ID Provisions ($1.1 million): (1) Adequately test impacted user interfaces, databases, system security and the performance of integrated system components; (2) Provide synchronization of new components to existing legacy systems; and (3) Plan and develop a foundation for a Real ID System infrastructure that will support and integrate new components.
   - Establish a Web Presence that is Designed to Meet the Needs of Real ID ($12.8 million): (1) Implement a structured web site infrastructure that provides multiple layers of security; (2) Implement an identity management solution; (3) Provide for audit ability.

   Staff Comment: DMV estimates that Real ID will increase customer visits to DMV offices by 2.5 million starting in May 2008. The IT requested here is not directly related to Real ID, but would facilitate the Department's implementation of the Act by enhancing web-based services to reduce the number of non-license visits to DMV offices.

   There is concern, from a legal and oversight perspective, that the Department not move forward to implement REAL ID without the enactment of authorizing policy legislation. To ensure that the Department does not implement the Act, and that the appropriate level of legislative oversight and review continues, Staff recommends the adoption of the following budget bill language:

Proposed BBL for Item 2740-001-0044

Provisions:

1. *Of the funds appropriated in this item, $9,383,000 shall be used only for those activities necessary to enhance the department's IT infrastructure in anticipation of increased demands on that infrastructure. These activities shall be limited to: (1) Enhancing the department's internet capacity to better serve the public, to reduce required visits to department field offices for non-drivers license-related transactions, and to securely share information with other states, (2) Upgrading IT equipment to accommodate requirements in federal law, such as the requirement for the state to collect, store, and retrieve an expanded full name field for each driver's license or identification card applicant; (3) Developing IT capacity to interface with federal, state and national databases and increasing IT security and capacity.*
2. *Of the funds appropriated in this item, $9,383,000 shall be available for expenditure after January 1, 2007, and used only for the activities described in provision 1, after the submittal of a report to, and a thirty-day review by, the Joint Legislative Budget Committee on the expenditure of funds made available to the department under provision 1. The report shall provide a detailed description of the expenditures made, the milestones achieved by the department, and the planned expenditures from the funds made available to the department pursuant to this provision.*
3. *No later than December 15, 2006, the department shall submit to the Joint Legislative Budget Committee and the transportation policy committees of the state Assembly and state Senate, a summary of the published federal regulations for the implementation of the federal REAL ID Act. The summary shall include: (1) A description of the federal regulations and the requirements and anticipated costs such regulations place on the state and the department; (2) A description and timeline for the necessary steps the department will need to take to implement the federal regulations, including an identification of necessary operational, regulatory and statutory changes the department will seek to comply with federal law; and (3) A description of the requirements the federal regulations place on individuals who seek to obtain or renew a driver's license or identification card issued by the department.*

Staff Recommendation: Approve the requested level of funding and positions, but also add the suggested budget bill language to ensure that the Department does not implement the Act, and that the appropriate level of legislative oversight and review continues.

Vote:

3. **Enterprise-Wide Oversight Consultant Plan (May Finance Letter #2).** The Administration requests 2006-07 funding of $1.3 million and funding of $1.1 million in each of 2007-08 and 2008-09 for the procurement of an Enterprise-Wide Oversight Consultant (EWOC) vendor to provide oversight services during the next three fiscal years. The purpose of the EWOC is to oversee a portfolio of key DMV technology projects and ensure executive level control through assessment of project progress. The DMV is already approved for, or is requesting approval of, eight information technology projects with a criticality level of medium or high.

   Staff Comment: One of the stated responsibilities of EWOC would be to "Report findings regularly to the Department, the Business, Transportation, and Housing Agency and the Department of Finance. In addition, report findings to the State Chief Information Officer, State Information Security Officer, and the Office of Privacy Protection, as needed." The Subcommittee may want to consider budget bill language to require EWOC report to also be provided to the LAO.

   Staff Recommendation: Approve the request, but also adopt the following budget bill language:

   Provision (_) of Item 2740-001-0044: Funding provided in items 2740-001-0042, 2740-001-0044, and 2740-001-0064 in the amounts of $69,000, $708,000, and $511,000 respectively, shall be made available for expenditure for the procurement of an Enterprise-Wide Oversight Consultant to provide oversight services for major information technology projects, including oversight of projects that would enable the Department of Motor Vehicles to implement the federal Real ID Act. The Enterprise-Wide Oversight Consultant shall report findings regularly to the Department of Motor Vehicles, the Business, Transportation, and Housing Agency, and the Legislative Analyst.

   Vote:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, May 18, 2006
9:30
Room 112

Agenda Part B

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

0690 Office of Emergency Services

Discussion Issues

1. Gap Analysis

At the hearing on April 24, the Subcommittee discussed issues related to disaster response and preparing for catastrophic events. At that meeting the Subcommittee discussed issues related to a clear chain of command for catastrophic responses, contingency plans for responses to catastrophic events, and what kinds of gaps have been identified in California's emergency preparedness.

In a report from April 2006, the Little Hoover Commission concludes that California has not put in place the plans and strategies or designed and deployed the tools needed to respond to the inevitable catastrophic event. The four major findings of the Little Hoover Commission report include:

- Despite the known risks, California is unprepared to respond to a catastrophic emergency.
- Fragmented authority and responsibility among state agencies undermines preparedness and hinders accountability.
- Emergency preparedness funding is not allocated in ways that recognize the State's strategic preparedness needs and funding fails to create incentives for improvement.
- California has not put in place a structure and strategy for promoting improvement and creating accountability.

In response to its findings, the Little Hoover Commission put forward a series of recommendations including:

- The State must put in place a comprehensive strategy for responding to a catastrophic event, and it should seek the assistance of independent consultants to guide that strategy.
- The Governor and the Legislature should restructure the state emergency management operation into a single, cabinet-level entity under the direction of an experienced leader.
- The Governor and the Legislature should ensure that emergency preparedness funding is adequate, strategic, and creates incentives fro improvement.
- The Governor and the Legislature should put in place a strategy for continuous improvement and accountability.

According to the report, a major step in improvements is for the OES to contract for an independent gap analysis. The Little Hoover Commission believes that, informed by the lessons from Hurricane Katrina, the state should contract with an independent consulting firm for a gap analysis to assess the strengths and vulnerabilities of California's emergency preparedness system for a catastrophic event and the projected costs to address those vulnerabilities. The gap analysis should be submitted to the governor, Legislature and public. Provisions should be developed for aspects of the analysis that require confidentiality. At a minimum, the gap analysis should address the following core issues:

- Awareness of risks and preparedness for catastrophic events, including the need for unity of command and interoperable communications.
- Adequacy of mitigation and prevention efforts.

- Integration of all state, local, federal, National Guard, active –duty military and private-sector emergency response capabilities.
- Preparedness and adequacy of local governments for high frequency and catastrophic emergencies.
- Fiscal and regulatory strategies to enhance preparedness, including prevention and mitigation efforts.

Staff Recommendation. Staff recommends approval of the following budget bill language that directs $1 million from eligible federal homeland security funds to perform an independent gap analysis of the state's preparedness for a catastrophic disaster.

> Item 0690- 011-0890
>
> Provision X. Of the funds appropriated in this item, $1 million shall be made available for an independent gap analysis of the state's preparedness for a catastrophic disaster, subject to any restrictions on eligible activities for federal grant funds. The study is to be conducted by a nongovernmental research entity. The Office of Emergency Services shall be the contracting entity, with input and oversight by the Joint Committee on Emergency Services and Homeland Security. The analysis shall consider various types of disasters, such as a major earthquake in an urban area, a levee break, a flu pandemic, a terrorist attack, and any other major disasters that are reasonable to anticipate in California. The report shall address specific roles and possible gaps in state, local, and federal government agencies' capacity to respond, including in the areas of governance, interoperability, medical response and surge capacity, evacuation and economic recovery. The report shall also consider the role of the private sector in support of government response. The report shall recommend specific funding and policy options to address the identified gaps. These options should be prioritized. The report shall be delivered on or before August 1, 2007 to the appropriate fiscal and policy committees.

Action

2. State Warning Center Increase

Budget Request. The budget proposes to increase staff at the State Warning Center (SWC), which serves as the central information point during state emergencies. Specifically, the budget proposes increased funding of $617,000 (General Fund) and nine new positions in order to maintain at least three staff at the center twenty-four hours a day.

Staff Recommendation. The Subcommittee previously held this issue open pending additional workload information from the OES. Based on the information submitted, staff recommends approval of seven of the requested 9 positions and a reduction of $125,000 from the request.

Action

3. Assistance for Victims of Crimes Committed by Parolees.

Budget Request. The OES currently administers the Victim-Witness Assistance Program, which funds every county to operate comprehensive victim-witness assistance centers that provide support services to victims and witnesses during criminal proceedings. Victim advocates guide victims through the court process, help victims receive restitution, provide crisis intervention, and make referrals to counseling and community services. The administration proposes to establish a $1 million grant program to assist counties in extending services to victims and witnesses that choose to participate in parole revocation hearings. The administration's stated objective is to increase victim-witness participation in such hearings, with the goal of sending more parolees back to state prison for crimes committed while on parole. Funding for this program would come from the Victim-Witness Fund, which is funded by criminal fines.
Concerns Raised by the Analyst. The LAO indicates that the administration could not identify the current rate at which victims and witnesses attend parole revocation hearings or the extent to which the local assistance centers already provide these services. The LAO also notes that the proposal does not identify the expected improvement in participation, how funding would be distributed, or the broader impact such participation is expected to have on criminal recidivism. The LEVS division is struggling to meet basic budgeting and accounting standards. The department asserts that adding two new grant programs would not further impair its progress in resolving these problems. Realistically, however, the financial problems will require ongoing attention by the department's executive management for the next several years. The department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs. In addition, the LAO notes that the OES has been struggling to meet basic budgeting and accounting standards for the criminal justice programs transferred from the former Office of Criminal Justice Planning. The LAO believes that the financial problems will require ongoing attention by the department's executive management for the next several years and that the department should be focused on meeting basic accounting and budgeting standards, rather than the development of new grant programs.

Analyst's Recommendation. The LAO recommends rejection of this funding.

Staff Recommendation. At the hearing on March 23 the Subcommittee rejected funding for this proposal, but also requested additional information from OES and CDCR on the request and the workload it was based on. Additional information has been provided to the Subcommittee, but there still exists some outstanding issues related to the anticipated workload. Staff recommends approval of the $1 million in Victim-Witness funds to provide services to victims and witnesses at parole revocation hearings on a two-year limited term basis. This should allow the department the ability to track workload and expenditures to justify the program moving forward.

Action.

4. California Multi-jurisdictional Methamphetamine Enforcement Team Program (Cal-MMET) – Finance Letter

Finance Letter Request. OES proposes to augment the Cal-MMET program by $20 million, bringing total expenditures to $29.5 million. This would essentially restore funding to its 2001-02 level. Under the current program, $9.5 million in grant funds are allocated by an advisory committee comprised of representatives from six counties in the Central Valley High Intensity Drug Trafficking Area (HIDTA). In past years, the committee has opted to award sub-grants to ten additional Northern California counties, bringing the total number of counties receiving support to 16. Under this proposal, total program funds of $29.4 million would be allocated as follows: North State Region ($4 million), Bay Area Region ($4 million), Central Region ($12.4 million), Southern Region ($7.5 million), Southwest Border Region ($1.5 million).

Analyst's Recommendation. The LAO recommends rejection Cal-MMET program augmentation for the following reasons:

- Proposed augmentation would create significant ongoing costs for the state.
- Other fund sources are available. The LAO notes that while federal law enforcement grants have declined in recent years, California still receives significant federal dollars including $35 million in Justice Assistance Grants and millions more to support federally-designated High Intensity Drug Trafficking Teams (HIDTA), among others. The LAO believes that if the two proposed programs are the highest priorities for local law enforcement, local governments can direct their own funds or state COPS funding to these activities.
- Piecemeal approach to augmenting individual programs not recommended. Nearly all of the programs administered by OES's Law Enforcement and Victim Services (LEVS) division have sustained cuts in General Fund support in recent years. Rather than take a piecemeal approach to augmenting the funding for individual programs, the LAO believes that the Legislature should evaluate the programs collectively and make strategic decisions about what to fund based on sound data on the problem to be addressed, other available sources of funding, and demonstrated success of the programs

Staff Recommendation. Staff notes that the LAO believes that should the Legislature opt to fund this program, it should require the department to demonstrate how the methamphetamine problem is distributed among regions and the linkage between the problem and funding allocations. Staff recommends approval of the funding for two years and the following budget bill language. At that time the OES can justify the continuation of the program by proposing a funding allocation plan that links grant funding to the size of the problem in each of the designated regions.

> Provision X. Of the funding appropriated in this item, $29.4 million is for local assistance to support California Multi-jurisdictional Methamphetamine Enforcement Teams. $20 million of this funding is provided on a two-year, limited-term basis. No later than January 10, 2008, the Office of Emergency Services, in consultation with the Department of Finance, will submit to the Joint Legislative Budget Committee a report which proposes a funding allocation plan that links grant funding to the size of the problem in each of the five state-designated regions. The report should also include a summary of spending by region, program activities, and demonstrated outcomes such as lab seizures and arrests.

Action

5. Collapse of Criminal Justice Programs – Finance Letter

OES proposes to collapse the Law Enforcement and Victim Services (LEVS) budget components to the element level. This is consistent with budgeting practices used by other departments. It would also streamline accounting operations for OES and its grantees.

Staff Recommendation. Staff recommends approval of the Finance Letter to display the OES grants consistent with other state agencies in the budget bill. Staff further recommends adoption of the following budget bill language which directs OES and DOF top provide a special display in the Governor's budget showing additional detail on the grants, and requires an annual report on the OES criminal justice programs.

> X. The Department of Finance shall include a special display table in the Governor's Budget under the Office of Emergency Services that displays, by fund source, component level detail for Program 50, Criminal Justice Projects. In addition, the Office of Emergency Services, in consultation with the Department of Finance, shall provide a report to the Joint Legislative Budget Committee by January 10 of each fiscal year, that provides a list of grantees, total funds awarded to each grantee, and performance statistics to document program outputs and outcomes in order to assess the state's return on investment for each component of Program 50 for each of the three years displayed in the Governor's Budget.

Action

6. Reappropriation of Frozen Federal Funds – Finance Letter

Finance Letter request. OES proposes to reappropriate $10.4 million in previously awarded federal funds that were frozen due to accounting irregularities when OCJP ran the programs. These funds are anticipated to be unfrozen upon completion of the accounting reconstruction project and certification of 2004-05 financial statements, scheduled for later this fiscal year. Funds must be spent between July and September, 2006 unless the state receives an extension from the federal government.

Analyst's Concern. The LAO has raised some concerns about the reasonableness of spending $10 million in such a short timeframe. The LAO indicates that the Legislature may need to consider steps it can take to assist in spending the funds in a timely manner.

Staff Recommendation. Staff recommends adoption of the following budget bill language that requires OES to report of the final results of the reconstruction of the records from OCJP and to report on the steps it is taking to ensure that appropriate fiscal controls and processes are in place for the effective administration of the its grant program.

> The Office of Emergency Services (OES) shall provide a final report to the Legislature by March 30, 2007 on the reconstruction and finalization of records for the programs that were transferred to the OES from the Office of Criminal Justice Planning. The report shall include a summary of the findings of the reconstruction effort and steps that have been taken by the OES to ensure that appropriate fiscal controls and processes are in place for the effective administration of those programs.

Action

7. Office of Homeland Security – Science and Technology Unit

Budget Request. The budget proposes $465,000 in federal funds and five positions to establish a Science and Technology Unit within the OHS. The new unit would seek technology based solutions for homeland security related goals. The positions requested include a Research Manager, and 4 Research Program Specialists.

Staff Comments. The OHS indicates that the US Department of Homeland Security (USDHS) has set up a Science and Technology Directorate that supports programs in research, development, testing, and evaluation. This proposal would be to provide staffing to mirror the USDHS program. OHS indicates that the goal of the unit would be to harness scientific and technological resources to provide state and local officials with the technology and capabilities to protect California citizens.

The OHS indicates that the Science and Technology Unit will seek to counter threats of catastrophic terrorism by implementing best practices, investigating new improvements to capabilities, sharing new capabilities already in use in the private sector, other states, local agencies, and the federal government.

Staff Recommendation. Given the discussions from the hearing on April 24 regarding staffing at OES and the potential loss of additional federal monies which would reduce the amount available for state expenditures, staff recommends rejecting this proposal.

Action.

0250 Judicial Branch

Proposed Vote-Only Issues

A. Antioch Courthouse – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $267,000 from the State Court Facilities Construction Fund to add three additional courtrooms to the original proposed project. This adjustment provides additional funds for the acquisition and preliminary plan phases of the project, and removes funds for the working drawings phase. The budget had originally proposed$2 million from the State Court Facilities Construction Fund to fund working drawings for a new trial court facility in Antioch to replace the Pittsburg facility.

Staff Notes. Based on a recommendation from the LAO, the Subcommittee held this issue open at the April 6 hearing, pending a revised proposal for the additional courtrooms.

B. Mammoth Lakes Courthouse – Finance Letter

Finance Letter Request. This Finance Letter proposes $2.1 million from the State Court Facilities Construction Fund for acquisition and plans for the Mammoth Lakes Courthouse in Mono County.

C. Trial Court Technology Baseline Funding – Finance Letter

Finance Letter Request. This Finance Letter requests to reduce $12.3 million from the proposed January budget due to a revised information technology project schedule and cost estimate submitted by the Judicial Branch. The Judicial Branch indicates that these funds are no longer needed.

D. Plumas/Sierra Courthouse – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $225,000 from the State Court Facilities Construction Fund for the acquisition and preliminary plan phases of the Plumas and Sierra Counties courthouse for costs that were not included in the original proposal.

The LAO has recommended additional budget bill language directing that any unspent acquisition funds revert to the State Court Facilities Construction Fund. The AOC and the DOF do not object to this language.

> The funds appropriated in this item include $437,000 for acquisition and $269,000 for preliminary plans. The funds appropriated for acquisition must be spent on acquisition related expenses and by June 30, 2007, any unspent portion of the acquisition funds will revert to the State Court Facilities Construction Fund.

Staff Recommendation. Staff recommends approval of the issues on the Vote-Only list.

Action.

Discussion Issues

1. Conversion of the Sisk Federal Courthouse – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $31.6 million from the State Court Facilities Construction Fund to facilitate the conversion of the Sisk Federal Courthouse into a state trial court facility.

The state is receiving the federal Sisk courthouse for free, with the stipulation that the building be continued to be used as a courthouse. Currently Fresno County has 8 judges in leased or constrained courtrooms. The proposed renovation would provide sufficient courtrooms for 8 judges. However, SB 56 (Dunn) would provide Fresno County with an additional 10 judges (2 of which would be located at the Juvenile courthouse and have space available for them). However, of those 10 new judges 8 would have no courtrooms available.

Analyst's Recommendation. The LAO recommends increasing the scope of the project to renovate the Sisk to have 16 courtrooms (since federal space standards are so much larger than state standards, this is possible). The total cost of renovating the Sisk to have 16 courtrooms is $61.3 million. However, building an entirely new courthouse for 8 additional judges would cost about $68 million (for total of nearly $100 million when adding Sisk 8 courtroom renovation with a new 8 courtroom courthouse). However, if SB 56 does not pass the extra space is not needed. Thus the LAO recommends appropriating $61,327,000 from the State Court Facilities Construction Fund and approving the following Budget Bill Language:

> **Judicial Branch - Item 0250-301-3037**
> Of the funds appropriated in Schedule (1.2) of this item, $61,327,000 is provided for the conversion of the Sisk Federal Courthouse in Fresno for a 16 courtroom facility. If Legislation to provide additional judgeships to Fresno County is not enacted in 2006, $29,700,000 will revert to the fund from which it was appropriated and the funds remaining in the appropriation will be available for the 8 courtroom facility.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends increasing the appropriation from the State Court Facilities Construction Fund to $61.3 million and budget bill language that reverts $29.7 million if legislation authorizing the new judgeships is not approved in 2006.

Action.

2. New Judgeships and Conversion of Subordinate Judgeships.

Budget Request. The proposed budget includes $5.5 million to support facilities, staff, salaries, and benefits for up to 150 new judgeships phased in over a three-year period beginning in April 2007. This level of funding assumes one month of expenditures in the budget year for 50 judgeships. The ongoing cost of 50 judges is $35.8 million and the ongoing cost of 150 judges is $107.3 million. The expenditure of these funds is restricted by budget bill language until legislation authorizing new judgeships is enacted. This proposal also supports the conversion of up to 161 judicial officers to judgeships, as the positions become vacant, funded from within existing resources.

Staff Comments. The judicial positions would be authorized in SB 56. The proposal includes funding for the salary of the judgeship, as well as for support staff of 6.1 staff per judge. The Subcommittee may wish to ask the Judicial Council about potential reporting requirements for the filling of the judgeships and the support staff positions and the use of the funds.

Staff Recommendation. Staff recommends approval of the funding and adoption of budget bill language that requires reverts funding not used to fill new judgeships and accompanying staff and requires the Judicial Council to report on the filling of new positions and judgeships.

> Provision X. Of the amount appropriated in this item, $5,450,000 is provided for the costs of new judgeships and accompanying staff. Any funds not used for this purpose shall revert to the General Fund. The Judicial Council shall report to the Legislature on January 1, 2008 and annually thereafter until all judgeships are appointed and new staff hired, on the amount of funds allocated to each trial court to fund the new positions.

Action.

3. State Appropriations Limit (SAL) Increase for the Trial Courts

Budget Request. The January budget included for SAL based on a 4.7 percent estimate for the SAL. For the May Revise, the SAL has formula has been recalculated at 4.96 percent. In total dollars this increases the amount for the trial courts from SAL to $111 million.

The request also proposes the following increases of $17.6 million due to changes in the SAL base calculation.

- $1.6 million related to operational allocations ($31.6 million) from the Trial Court Improvement Fund that would be included in the base calculation.
- $1.7 million for including the Judicial Administration Efficiency and Modernization Fund in the base calculation.
- $471,000 for including the Equal Access Fund Program in the base calculation.
- $15.6 million for including judicial compensation in the base calculation.
- -$1.7 million for a change in the calculation methodology.

Analyst Concerns. The LAO has raised some concerns with the proposal, specifically regarding including the judicial compensation in the base calculation. Under current law, superior court judges receive salary increases equivalent to the average pay increase for state employees. The trial courts receive annual budget adjustments to account for these raises. The proposal would instead adjust funding for judge salaries by using the SAL growth factor. The LAO believes this method is flawed. For example, in the 2006-07 budget, judge salary increases are estimated to be 3.7 percent, while the SAL growth factor is estimated at 4.96 percent. Because of this difference, the courts would receive an additional $3.5 million beyond what is needed to fund judge salary increases.

Staff Recommendation. Staff recommends approval of the SAL formula and the SAL formula changes proposed in the budget except for the inclusion of judicial compensation. Staff also recommends adopting amended placeholder trailer bill language that removes the continuous appropriation language, formalizes the calculation methodology for calculating the SAL, and provides additional oversight in the form of reporting on the allocation methodology during the annual budget process.

Action.

4. SAL for the Judiciary

The January budget proposed $1.2 million to provide the SAL growth formula to the Judiciary. This amount would provide one month of SAL for the budgets for the Supreme Court, the Courts of Appeal, and the Administrative Office of the Courts.

Analyst's Recommendation. Overall, the LAO indicates that the proposal to expand use of the SAL adjustment to the entire Judicial Branch lacks a clear policy rationale and will likely lead to overfunding of the courts. The LAO also believes that the proposal reduces legislative oversight by making the vast majority of Judicial Branch funding appropriated without regard to fiscal year. Because of these concerns, the LAO recommends rejection of the proposal to expand the use of SAL to the entire Judicial Branch.

Staff Recommendation. Staff recommends rejecting the expansion of the SAL for the judiciary for a savings of $1.2 million General Fund. Staff notes that the judiciary was provided with only 11 months of price increase because the SAL was proposed for 1 month. Staff recommends increasing the budget for the judiciary by $300,000 General Fund and $101,000 special funds to provide the 12th month of price increase.

Action.

5. Changes to Provisional Language

Staff Recommendation. There are a number of provisions in the budget bill that provide flexibility to increase expenditures above the amount appropriated in the budget bill language. Consistent with actions taken in other budgets, staff recommends approval of the following changes to provisional language for the courts which generally insert notification language to the Legislature prior to increasing expenditures.

Budget Item 0250-001-0159:

Provision 1. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall increase this Item up to $12,509,000 for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts.

Provision 2. Upon approval by the Director of the Administrative Office of the Courts, and notification to the Department of Finance, the Chairpersons of the committees in each house of the Legislature that consider appropriations and the Budget, and the Chairperson of the Joint Legislative Budget Committee, the Controller shall additionally increase this item by an amount, or amounts totaling no more than $1,250,000. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.

Item 0250-101-0932:

Provision 8. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall transfer up to $9,019,000 to Item 0250-001-0932 for recovery of costs for administrative services provided to the Trial Courts by the Administrative Office of the Courts.

Provision X. Upon approval by the Director of the Administrative Office of the Courts, and notification to the Department of Finance, the Chairpersons of the committees in each house of the Legislature that consider appropriations and the Budget, and the Chairperson of the Joint Legislative Budget Committee, the Controller shall additionally increase the amount of the transfer by an amount, or amounts no more than $901,000. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.

Item 0250-001-3060

Provision 1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Appellate Court Trust Fund, which is in addition to the amount appropriated in this item. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.

0250-101-0932:

Provision 5. Upon order of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Trial Court Trust Fund, which is in addition to the amount appropriated in this item. <u>Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</u>

0250-112-0556:

Provision 1. Upon approval of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Judicial Administration Efficiency and Modernization Fund, which is in addition to the amount appropriated in this item. <u>Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairperson of the committee and appropriate subcommittees that consider the state budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.</u>

Action.

6. Finance Letter. Correct Error in Program Schedule Regarding Administrative Services Reimbursement.

Finance Letter Request. This Finance Letter proposes to make a technical adjustment to Budget Item 0250-001-0932, by replacing program 45.10 – Support for Operations of the Trial Courts with program 30 – Judicial Council, in order to allow the AOC to recover costs associated with providing services to the trial courts.

Staff Comments. The AOC has indicates that the amount it estimates for the transfer item is $9,019,000, so this amount should be inserted into the change.

Staff Recommendation. Staff recommends approval of the Finance Letter and the following budget bill language that allows this item to be increased.

Item 0250-001-0932:

<u>Provision X. Upon approval by the Director of the Administrative Office of the Courts, the Controller shall increase this Item by an amount appropriate to allow for the expenditure of any transfer to this Item made pursuant to Item 0250-101-0932, Provision 8.</u>

Action.

7. Court Appointed Counsel

The Court Appointed Counsel (CAC) program in the courts of appeal provides funding to reimburse private attorneys that accept appointments in criminal, juvenile, and dependency appeals. Appointments in such cases are compensated according to a three-tier system. The current hourly rates are $70 per hour for "supervised" cases, $80 per hour for unsupervised, less serious cases, and $90 per hour for unsupervised, serious cases.

The California Appellate Defense Counsel (CADC) has indicated that inflation has significantly eroded the reimbursement rate for this workload. The CADC indicates that this erosion is diminishing the pool of attorneys doing this specialized workload. They note that it takes 5 years to train an attorney to do this work cost-efficiently and professionally, and that appellate work is not part of the usual legal education. The low compensation levels deter new attorneys from entering, and are deterring attorneys from remaining in the system to do this workload.

In order to address this problem, the Judicial Council approved a $5 increase to the hourly rates in October 2005. CADC is seeking an additional $10 increase.

Staff Comments. The budget for the CAC program has been reduced in the last few years, because $3 million in unallocated permanent cuts to the Judiciary were all allocated to this program by the AOC. Staff notes that the expenditures for this item have been below the budget for the last several years. For example, excluding one-time reductions, program savings for this budget totaled $7.9 million in 2003-04 and $5.1 million in 2004-05. Unspent funds from this program revert to the General Fund. The cost of a $10 increase to the hourly rate is $1.8 million in the first year and $3.6 million ongoing.

Staff Recommendation. The 3.1 percent price increase that the CAC program will be receiving in the budget year translates to an increase of $1.8 million. Staff recommends that the Subcommittee adopt budget bill language that directs the price increase amount be used to provide a $10 increase in the compensation for handling cases.

> Provision x. Of the amount appropriated in this item, $1,800,000 from the price increase for the Court Appointed Council Budget is to provide funding for a $10 per hour increase in compensation at all three levels of appointed counsel.

Action

8. Judicial Salaries

In order to draw diverse attorneys to the judiciary, compensation must be maintained at a level commensurate with the market competition for their services, workload and responsibilities. California judicial salaries, when adjusted for cost-of-living increases, are ranked 26th compared to other state judge salaries in the U.S. As a first step towards restoring equity in compensation for California's judicial officers, an 8.5 percent salary increase was proposed in FY 2000–2001 and an additional 8.5 percent in FY 2001–2002. The 2000 Budget Act included funding for the first 8.5 percent increase. The second 8.5 percent was not approved in the 2001 Budget Act.

Staff Recommendation. In order to improve efforts to attract qualified attorneys from all areas of legal practice with diverse backgrounds to pursue judicial careers, staff recommends approval of an augmentation of $14.7 million, and adoption of budget bill language and trailer bill language to provide an increase in judicial salaries of 8.5% effective January 1, 2007.

The proposed trailer bill language provides that, on January 1, 2007, the salary of California justices and judges shall be increased by that amount which is produced by multiplying the salary of each justice as of December 31, 2006, by 8.5 percent.

Proposed Budget Bill Language

> Provision X. Of the funds allocated in this section $14,666,000 shall be used to increase judicial salaries by 8.5% effective January 1, 2007.

Proposed Trailer bill language:

> Gov. Code sec. 68203
>
> (a) On July 1, 1980, and on July 1 of each year thereafter the salary of each justice and judge named in Sections 68200 to 68202, inclusive, <u>and 68203.1</u> shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California State employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.
>
> (b) For the purposes of this section, salary increases for state employees shall be such increases as reported by the Department of Personnel Administration.
>
> (c) The salary increase for judges and justices made on July 1, 1980, for the 1980-81 fiscal year, shall in no case exceed five percent.
>
> (d) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by that amount which is produced by multiplying the salary of each justice and judge as of December 31, 2000, by 8 1/2 percent.
>
> <u>(e) On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by that amount which is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8 1/2 percent.</u>

Action.

0820 Department of Justice

Proposed Vote-Only Issues

1. Finance Letter – Class Action Workload

Finance Letter Request. This Finance Letter requests an increase of $3.1 million General Fund to handle class action cases received from the California Department of Corrections and Rehabilitation. The request includes budget bill language that restricts the use of funds as budgeted for the Correctional Law Section.

> Provision X. Of the amount appropriated in this item, $20,548,000 is available solely for the Correctional Law Section which handles only workload related to California Department of Corrections and Rehabilitation cases, and of that amount, $3,794,000 is restricted to class action workload.

2. Finance Letter – Megan’s Law Fund Shift

Finance Letter Request. This Finance Letter requests an increase of $81,000 General Fund, with a corresponding decrease of $81,000 from special funds. The DOJ indicates that this fund shift is necessary to continue funding for the Megan's Law Program at its current level, and is a result of declining revenue to the Sexual Predator Public Information Account. The Sexual Predator Public Information Account will not have sufficient revenue due to a significant decrease in the revenue associated with the ‘900” line, as a result of the Megan’s Law Website. The requested amount would increase to $500,000 in FY 2007-08.

The DOJ indicates that this program funds: (1) a statewide training program that focuses on technical, legal, and enforcement aspects of the sex offender registration program; (2) Data Correction including ongoing analysis, research and correction of sex offender information contained in DOJ’s database; and (3) the California Sex Offender Information “900” Line which allows the public to call DOJ to check if a person is a registered sex offender.

3. Finance Letter – Responsible Adults – Safe Teens Project

Finance Letter Request. This Finance Letter requests an increase of $517,000 in reimbursement authority for 2006-07 and $383,000 in 2007-08 to accept a new grant award from the Office of Traffic Safety for a Responsible Adults-Safe Teens Project, which will allow the DOJ to develop and implement a public awareness campaign that encourages parents and adults to comply with the laws against providing alcohol to minors.

4. Finance Letter – Information-Led Policing

Finance Letter Request. This Finance Letter requests a one-time increase of 487,000 from federal funds to reflect a new federal grant award from the National Institute on Justice, for Information-Led Policing Research, Technology Development, Testing, and Evaluation.

This request requires a Feasibility Study Report (FSR). The DOF notes that due to timing issues with the federal grant process, an FSR has not yet been submitted for this project. In order to maximize the use of available federal funding, the Administration request language that restricts the DOJ from spending these funds until an FSR has been approved by the Department of Finance and reviewed by the Legislature.

> Provision X. Of the funds appropriated in this item, $487,000 is for the Information-Led Policing Research, Technology Development, Testing, and Evaluation grant. These funds may not be encumbered or expended until a Feasibility Study Report has been approved by the Department of Finance. The Department of Finance's approval shall be effective no sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee of the approval.

5. Finance Letter – Energy Litigation

Finance Letter Request. This Finance Letter requests a one-time increase of $4,194,000 from the Ratepayer Relief Fund to continue investigation and litigation activities arising from California's electricity and natural gas emergency. To ensure that the DOJ does not spend more than it recovers, the Administration has proposed the following budget bill language that aligns expenditures with actual recoveries.

> Budget Item 0820-001-3061
> Provision 1. All funds appropriated in this item are for energy investigations and litigation. These funds may not be encumbered or expended until the Energy and Corporate Responsibility Section has recovered sufficient funds to cover its costs.

6. Finance Letter – Transfer Various Programs

Finance Letter Request. This Finance Letter requests authority to transfer the Facilities Protection Unit ($954,000) from the Administrative Services Division to the Division of Law Enforcement, the Fiscal Systems Unit ($408,000) from the Administrative Services Division to the Division of California Justice Information Services, and a portion of the Office of Professional Development and Case Management ($507,000) from the Executive Programs Division to the Division of California Justice Information Services. There is no net change in the amount funded.

7. Finance Letter Transfer of Spousal Abuser Prosecution Program

Finance Letter Request. This Finance Letter requests a technical change to decrease the state operations budget by $283,000, and increase the local assistance item by $283,000, and delete Provision 4 from Item 0820-001-0001 which requires the DOJ to transfer $283,000 to Item 0820-101-0001 to support the Spousal Abuser Prosecution Program. There is not net change in funding due to this change.

8. Finance Letter – Reappropriation for the Single-Point Information Collection and Evaluation System (SPICES)/Threat Analysis Reporting and Geographic Tool (TARGET)

Finance Letter Request. This Finance Letter requests that Item 0820-490 be added to reappropriate up to $3,590,000 from Item 0820-001-0890, Budget Act of 2005, Program 50, Division of Law Enforcement, for the Single-Point Information, Collection, and Evaluation System ($1.0 million), and the Threat, Analysis, Reporting, and Geographic Evaluation Tool ($2,590,000) projects. This reappropriation is necessary due to delays in the procurement process, which will prevent the DOJ from encumbering these funds in the current year.

9. Supervising Deputy Attorney General Classification – Finance Letter

Finance Letter Request. This Finance Letter proposes $1.3 million ($741,000 General Fund) in 2006-07 increasing to $1.7 million ($983,000 General Fund) in 2007-08 to establish the Supervising Deputy Attorney General classification. The proposal would reclass 130 existing positions to the supervising level.

10. Radio Communications Equipment Replacement.

Budget Request. The proposal requests $2.8 million General Fund in one-time funds to replace its radio communications system infrastructure (repeaters, control stations, and desktop dispatch consoles), and $936,000 of ongoing General Fund authority to establish beginning in 2007-08 an annual replacement program for portable radios and other radio equipment.

11. Underground Economy.

Budget Request. The budget proposes $556,000 and 4.3 positions to establish an Underground Economy Statewide Investigation and Prosecution Unit within the Public Rights Division. According to the DOJ, the focus of the unit would be the investigation and prosecution of various underground economy cases, including unfair competition cases seeking restitution for unpaid wages, and criminal cases dealing with theft of labor, withholding of wages, and tax evasion.

Analyst's Recommendation. Based on additional information provided, the LAO now recommends approving this proposal on a three year limited term basis.

Staff Notes. Staff recommends approval of this proposal on a three-year limited-term basis.

Staff Recommendation. Staff recommends approval of the Vote-Only issues as noted.

Action

Discussion Issues

1. California Methamphetamine Strategies (CALMS) Program.

Budget Request. The budget proposes $6 million and 31 positions, mostly special agents, to provide technical assistance to local law enforcement in less populated areas of the state where some methamphetamine production occurs.

Staff Notes. At the hearing on April 6, the Subcommittee rejected funding for this proposal. In response to some of the issues raised at the hearing, the DOJ has provided some additional information.

Staff Recommendation. Staff recommends reopening this issue and approving the proposal. In the event that it takes more time than anticipated to hire the new positions, staff recommends approval of budget bill language that reverts any savings to the General Fund.

Action.

2. Gang Suppression Enforcement Teams.

Budget Request. The budget proposes $6.5 million and 33.6 positions to establish 4 Gang Support Enforcement Teams (GSET). The proposal would also fund an additional two teams in 2007-08 for a total of $9.8 million.

Staff Notes. At the hearing on April 6, the Subcommittee held this issue open. In response to some of the issues raised at the hearing, the DOJ has provided some additional information to the Subcommittee.

Staff Recommendation. Staff recommends approval proposal on a two-year limited-term basis ($6.524 million and 33.6 positions in 2006-07 and 2007-08), and budget bill language that requires DOJ to revert any savings to the General Fund and to report activities and outcomes of the GSET.

Action.

3. DNA Fingerprint, Unsolved Crime and Innocence Protection Act – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $2 million General Fund to provide additional resources to the Bureau of Forensic Services within the Department of Justice's Division of Law Enforcement, to support workload associated with the DNA Fingerprint, Unsolved Crime and Innocence Protection Act (Proposition 69).

Analyst's Concerns. The LAO believes that this is a policy call on the part of the Legislature. Since Prop 69 states that the requirements of the program are subject to availability of funds, the Legislature is not obligated to provide General Fund dollars to the DNA Program. The intent of the measure was to have a self-sustaining program that operated primarily on revenues from criminal penalties, and which would not necessarily require additional funding from the General Fund. Consequently, the Legislature has the discretion to decide whether to provide General Fund dollars to the program.

However, the LAO notes that should the Legislature approve the proposal and decide to continue funding the program at its current operating level, additional funding will be needed in future years. Under Prop 69, the state currently receives 70 percent of criminal penalty revenues earmarked for the DNA Program. In addition, under terms of the measure, the state will receive only 50 percent of these revenues in 2007, and only 25 percent in each subsequent year. Therefore, to fund the program at its current level in future years will require additional General Fund dollars or an increase in the criminal penalties earmarked for the DNA program.

The LAO also notes that this year's revenue windfall could be one-time in nature and might not be available in the future.

<u>Potential Questions</u>
Is it possible to increase fines to pay for the increased costs of the program?
What is the impact of not providing additional General Fund for this program?

Staff Recommendation. To provide additional time to review the proposal, staff recommends taking an action to reduce the requested amount by $1,000 in order to send this issue to the conference committee.

Action

5225 Department of Corrections and Rehabilitation

Proposed Vote-Only Issues

1. Electronic In-Home Detention Program.

Budget Request. Proposes $1.2 million and 12 positions to fund the Electronic In-Home Detention (EID) program (passive monitoring system). The proposal includes funding to implement, distribute, and monitor 500 EID units statewide to provide an additional supervision tool.

2. Adult Local Assistance – Finance Letter.

Finance Letter Request. The May Revise includes an additional $10 million to fund local entities for the costs to house state inmates. This amount includes $2.5 million to increase the daily jail rate from $68.22 to $71.57.

3. Case Records Staffing – Finance Letter

Finance Letter Request. This Finance Letter proposes a decrease of $6,610,000 General Fund to recognize the projected actual cost of creating a new classification for case records staff. The January proposal included $10.0 million for records staffing to create an appropriate classification for Case Records staff. At that time, the Administration committed to develop a detailed plan to create a deeper class that would allow for promotional opportunities and would more accurately reflect duties performed by these staff. The CDCR expects to be able to reclassify existing staff and hire new staff to fill existing vacancies in October. The amount requested reflects nine months of salaries, wages and benefits as reclassified in 2006-07.

4. Pay Enhancements: Psychiatrists – Finance Letter

The Finance Letter proposes an increase of $12,727,000 General Fund to provide psychiatrists, who meet the qualifications specified by the court, with a 10 percent salary increase, as well as establish a recruitment bonus for new employees coming from outside of state service. This request is in response to a recent court order in the *Coleman v. Schwarzenegger* lawsuit.

5. Pay Enhancements: Corcoran State Prison – Finance Letter

The Finance Letter proposes an increase of $915,000 General Fund to provide pay enhancement for mental health staff working at Corcoran State Prison in response to a court order issued on February 15, 2006 in the *Coleman v. Schwarzenegger* case.

6. Pay Enhancements: Various Health Care HQ Positions – Finance Letter

Finance Letter Request. The Finance Letter proposes an increase of $1,364,000 General Fund to provide a 3 percent pay increase for various positions that oversee the Statewide Mental Health Service Delivery System at headquarters. This request is in response to a recent court order in the *Coleman v. Schwarzenegger* lawsuit. This proposal also includes several other court-order related pay adjustments for specific positions.

7. *Plata v. Schwarzenegger* Court Order Compliance – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $1.3 million General Fund and 17 positions to provide additional staffing to allow CDCR to address issues of court compliance related to death reviews, the review of professional practices, and the employee discipline process.

8. Health Care Services Litigation Infrastructure Support – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $6.9 million General Fund and 108.5 positions to provide additional staff to meet various recent court orders in the Plata and Coleman court cases. This includes the following:

- 33 two-year limited-term contract management positions required in a recent Plata court order.
- 3 health program specialist positions for a Compliance Unit.
- 3 positions at headquarters to support a Litigation Management Unit.
- 6 positions to perform telemedicine activities at specific institutions as required by a recent Coleman court order.
- 53.5 pharmacy tech positions on a two-year limited-term basis and $200,000 to contract for a workload study for classification and staffing of pharmacies.
- 10 radiological technologist positions.

9. Comprehensive Health Care Recruitment Staff – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $6 million General Fund, 75.5 limited-term positions, and 2 permanent positions for the Comprehensive Health Care Recruitment proposal. The positions are intended to allow the department to meet the hiring timeframes specified in the Plata court order to medical classifications. The proposal will also provide similar processes for hiring mental health classifications which are currently experiencing significant vacancy rates. The funding includes resources to implement Live Scan technology to improve the timeliness of background checks.

10. Division of Juvenile Justice Teacher Salaries – Finance Letter

Finance Letter Request. This Finance Letter proposes $6.1 million from Proposition 98 funds to pay teacher salary adjustments associated with the new bargaining agreement for Bargaining Unit 3 teachers that took effect April 1, 2006.

11. DJJ Health Care Remedial Plan

Budget Request. The department requests $7.5 million and 90 full-time positions to implement the Juvenile Health Care Remedial Plan. The remedial plan is one of the component requirements of the *Farrell v. Hickman* settlement agreement, which requires the department to improve the quality of care and treatment provided to wards in DJJ facilities. The budget requests funding for additional health care staff at headquarters and DJJ facilities, as well as for medical and dental equipment.

12. Juvenile Population Changes – May Revise

Finance Letter Request. The May Revise includes General Fund augmentations of $2.1 million in the current year and $7.3 million in the budget year. For the current year, the year-end juvenile institution population is projected to decrease by 155 wards to 2,805 while the juvenile parole population is projected to decrease by 160 parolees to 3,260. For the budget year, the year-end ward population is projected to be 2,660, or 20 below the January budget, and the parole population is projected to be 2,935, or 240 below the January budget. The request for increased funds, despite falling populations, is due to increases for salaries of trainees attending the Academy and errors in budgeting for Youth Correctional Counselors, and the opening of a new housing unit at Heman G. Stark Youth Correctional Facility in the budget year.

13. Space Needs Related to Farrell v. Hickman – Finance Letter

Finance Letter Request. This Finance Letter proposes $12.5 million General Fund to purchase modular buildings and make related facility improvements, in order to provide sufficient program and educational space to implement the programmatic changes required by the Farrell v. Hickman lawsuit. In the current year, the DJJ is using $2.9 million in federal funds to begin this work. The proposed funding would provide approximately 42,000 square feet of modular space and funding to improve the telecommunications switch

14. Substance Abuse Treatment Funding – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $835,000 General Fund and a decrease of $835,000 in reimbursements, to backfill and reflect the loss of federal funds from the Office of Emergency Services that were previously used to fund substance abuse treatment programs in youth facilities. This funding would allow the existing program to continue at the current level of service.

15. Farrell v. Hickman Consent Decree Costs – Finance Letter

Finance Letter Request. This Finance Letter proposes $1.3 million General Fund to pay for the costs related to oversight, monitoring, and implementation of activities required by the Farrell consent decree, as provided by court mandated experts. Funding of $1.3 million was provided in the current year for this monitoring. These are the costs to retain experts in all of the areas of the Farrell lawsuit to continue to help in the development of remedial plans, monitor compliance with filed remedial plans, and to refer to should the DJJ and plaintiff enter into the dispute resolution process.

16. DJJ Training Needs Assessment Reappropriation – Finance Letter

Finance Letter Request. This Finance Letter proposes to reappropriate $1 million from the funding to perform a training needs assessment in the current year.

17. *Gang Management.*

Budget Request. The budget proposes $200,000 in contract funding to facilitate the formation of a Gang Management Workgroup to include recommendations from consultants identified as nationally recognized gang experts to address comprehensive plans for inmate housing, classification, discipline, and gang management.

18. *Coleman v. Schwarzenegger* Court Order Compliance – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $20.2 million General Fund to establish 254.6 positions to comply with recent court orders that require the implementation of new Program Guidelines for the Mental Health Delivery System, and requires the CDCR to increase the level of headquarters oversight of the Mental Health Program. The administration indicates that these positions address the minimum necessary field and headquarters staffing required for compliance with court orders mandated by the *Coleman* Special Master.

19. Small Management Exercise Yards (Statewide) Correct Program Number for Gov. Budget Item—Finance Letter.

Finance Letter Request. This Finance Letter proposes a technical change to assign the correct program number designation to this project.

20. Statewide: Habitat Conservation Plan

Finance Letter Request. This Finance Letter proposes to reappropriate funds for the habitat conservation plan. This appropriation was established to mitigate impacts resulting from the installation of electrified fences at various institutions. CDCR indicates that both the Department of Fish and Game and the United States Fish and Wildlife Service have issued the necessary permits. The CDCR indicates that due to the complexity of the project, this reappropriation is necessary to complete all phases of the project.

Staff Recommendation. Staff recommends approval of the issues on the Vote-Only list.

Action.

Discussion Issues

1. Recidivism Reduction Strategies.

The budget proposes funding to expand various inmate and parole programs designed to reduce re-offending and recommitment to state prison. The proposal (including $30 million approved in the 2005 Budget Act) includes $21.1 million for enhancements to inmate education and vocational education programs; $7.7 million for community partnerships; $7.8 million for parole services expansions, $9.9 million for institution based rehabilitative and treatment programs; and $6.2 million to research the effectiveness of correctional programs.

Staff Recommendation. Staff recommends approval of the funding for the recidivism reduction proposals with the following reporting budget bill language regarding reporting on implementation of the programs. In addition, staff recommends budget bill language designating $900,000 from the total for the recidivism reduction strategies to provide for three expert evaluations in the areas of education, treatment and rehabilitation, and parole services.

> 5225-001-0001 Provision X. No later than September 1, 2006, the Secretary of the Department of Corrections and Rehabilitation shall submit to the chairpersons and vice-chairpersons of the Committee on Budget in both houses of the Legislature and to the Legislative Analyst's Office an implementation and evaluation plan for funding provided as part of Recidivism Reduction Strategies. For each program component of Recidivism Reduction Strategies, the department shall detail its projected timeline for program implementation, including but not limited to purchasing equipment and supplies, hiring staff, securing contracts, beginning participation by inmates and parolees, and reaching full operating capacity. For each program component of Recidivism Reduction Strategies, the plan shall also identify the specific measures by which the department plans to evaluate these programs, the baseline measurements for these programs, as well as identify projected implementation targets and targeted projected outcomes for March 2007, September 2007, and annually for five years that the department expects to achieve for each of these measures.
>
> 5225-001-0001 Provision X. Of the amount in this item, $900,000 shall be used to contract with correctional program experts to complete comprehensive evaluations of all adult prison and parole programs designed to reduce recidivism—including education, rehabilitation and treatment, and parole programs—for both male and female inmates and parolees. This evaluation shall include an inventory of existing programs, including program capacity, as well as an assessment of whether each of these programs is likely to have a significant impact on recidivism for those participants. This evaluation shall also include an estimate of the number of inmates or parolees not currently participating in these programs who would be likely to benefit from participation. The department shall submit to the chairpersons and vice chairpersons of the Committee on Budget in both houses of the Legislature and to the Legislative Analyst's Office a report detailing the findings of the evaluation by June 30, 2007.

Action.

2. Adult Corrections Population – May Revise

Finance Letter Request. The May Revise proposes increases to the budget for the adult corrections population due to increases in the estimates for the inmate population. For the current year, the May Revise proposes an increase of $43.7 million General Fund based on the adult population (the January proposal had includes an increase of $48.4 million as a result of increasing population). For the current year, the May Revise reflects an estimated institutional average daily population (ADP) of 168,018 (an increase of 1,680 above the January estimate), and a projected parolee ADP of 115,290 (a decrease of 234 below the January estimate).

For the budget year, the May Revise proposes an increase of $142 million General Fund and an additional 1,076 positions based on projected increases to the adult population above the amount projected in January. The May Revise reflects an estimated institutional ADP of 175,627 inmates, which represents 5,422 more inmates than was projected in the January budget. The projected parolee ADP is 117,754, which is an increase of 1,534 above the January budget.

Staff Recommendation. Staff recommends approval of the may revise population proposal.

Action

3. In-Cell Integration – Finance Letter.

Budget Request. The budget proposes $5.9 million and 30 positions in the budget year and $1.6 million of ongoing funding to fund staff, physical plant, and training and equipment expenses necessary for statewide implementation of in-cell integration as required in the settlement agreement foe the Garrison *Johnson v. State* lawsuit

Staff Notes. At the hearing on April 27, the CDCR requested that this item be held open pending a revision of the request. The CDCR has provided the following response to the Subcommittee. The CDCR is not ready to employ the requested resources at this time. Modification to existing information system(s) is necessary to code all inmates' racial eligibility. Due to prioritization of information system modifications racial coding has been delayed. It is anticipated that these system modifications will be completed by January 2007. CDCR is therefore requesting to modify its request to provide limited term resources to pursue full implementation of the court mandate. Specifically, 1.0 Office Technician and 1.0 Associate Governmental Program Analyst are requested on a limited-term basis to provide project planning and implementation. Additionally, CDCR requests the field clerical staff previously requested become effective in January 2007, when the information system coding modifications are complete. Finally, CDCR withdraws the Headquarters Associate Governmental Program Analyst pending further evaluation of workload and may resubmit a request for this resource in a future budget cycle. The resources requested in the Finance Letter are revised to $4.829 million and 2.0 limited term positions effective July 1, 2006; 22.37 ongoing positions effective January 2007.

Staff Recommendation. Staff recommends approval of the revised amount of $4.829 million and 2.0 limited term positions effective July 2006; and 22.37 ongoing positions effective January 2007.
Action

4. Adult Healthcare Services

Budget Request. The budget proposes to augment the budget baseline for contract medical by $42.7 million, pharmaceuticals by $16.4 million, and medical guarding by $9.1 million due to reported ongoing budget shortfalls in the health care services division.

Staff Recommendation. Staff recommends approval of this request.

Action

5. Contract Medical and Medical Guarding – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $182.4 million General Fund to adjust the base funding available to pay for the increased costs of medical contracts and medical guarding. This adjustment would provide budget year funding to continue the current level of contract expenditures that the department is incurring. The total current base shortfall in this area is $250.5 million – offset by the $68.1 million increase proposed in this area in the January budget (issue #4 above).

Staff Recommendation. Staff recommends approval of this request.

Action

6. Stand-Alone Budget Item for the Health Care Program – Finance Letter

Finance Letter Request. This Finance Letter proposes the creation of a new stand-alone budget item for CDCR's Healthcare Services Program. This item includes:

- Provisions allowing for expedited revision of the level of funding needed for the Receiver appointed to oversee the provision of medical care in the state prisons under *Plata*.
- Deletes provisions 6, 7, and 12 from Budget Item 5225-001-0001.
- Provides that the Director of Finance may increase expenditures above the amount appropriated by $250 million due to actions of the Receiver or the Court in *Plata*.

Staff Recommendation. As proposed, the Department of Finance did not include an appropriation or include the $250 million in its expenditure totals, and the language includes providing broad authority for the Director of Finance to use the $250 million to augment any state department's budget. Staff recommends the following:

1. Appropriating the $250 million in schedule 5 of the new item.
2. Limiting flexibility by inserting language into Provision 2 indicating that money can only be expended by CDCR or departments involved in the provision of health care to California inmates.
3. Adding new provision 6 requiring immediate notification of the Legislature when expenditures are occurring at a rate that would exhaust the $250million.
4. Adding new provision 7 requiring any unused funds from the $250 million to revert to the General Fund.

The proposed changes are shown on the next page.

1. On February 14, 2006, the U. S. District Court in the case of *Plata v. Schwarzenegger* (No. C01-1351 THE) suspended the exercise by the Secretary of the California Department of Corrections and Rehabilitation of all powers related to the administration, control, management, operation, and financing of the California prison medical health care system. The court ordered that all such powers vested in the Secretary of the California Department of Corrections and Rehabilitation were to be performed by a Receiver appointed by the Court commencing April 17, 2006 until further order of the Court. The Director of the Division of Health Care Services is to administer this item to the extent directed by the Receiver.

2. Notwithstanding any other provision of law, the Director of Finance may authorize an augmentation of the amount available for expenditure in Schedule (5) of this item, for the purpose of funding costs for the Department of Corrections and Rehabilitation and any other state agency or department that is involved in the provision of health care to California inmates, including the costs of capitol projects, resulting from actions by the Receiver or the court in *Plata v. Schwarzenegger*. Augmentations pursuant to this authority may not exceed $250 million, in aggregate, during the 2006-07 fiscal year. From any amount available in Schedule (5), the Director of Finance may authorize the transfer of funds from Schedule (5) of this item of appropriation for the purpose of augmenting the amount available for expenditure in any other schedule in this item of appropriation, or any other appropriation to a department or agency that provides healthcare to California inmates in Section 2.00 of this Act. The Director shall not approve any augmentation or transfer under this provision unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly fiscal committees ~~in each house~~ ~~that considers appropriations~~ no later than 30 days prior to the effective date of the approval, or prior to whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine. The notification to the Legislature shall include information regarding the purpose of the expenditures and the expected outcome of those expenditures.

3. No later than March 1, 2007, the Department of Corrections and Rehabilitation shall submit a report to the Legislature that provides the guidelines for the goals and performance measures of the delivery of health care services and how the Department will compare their performance to those measures to determine whether they are providing the appropriate level of care.

4. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation is not required to competitively bid for health services contracts in cases where contracting experience or history indicates that only one qualified bid will be received.

5. Notwithstanding Government Code section 13324 or Section 32.00 of this Act, no State employee shall be held personally liable for any expenditure or the creation of any indebtedness in excess of the amounts appropriated therefore as a result of complying with the directions of the Receiver or orders of the U.S. District court in *Plata v. Schwarzenegger*.

6. The Director of Finance shall immediately notify the Joint Legislative Budget Committee and the fiscal committees of the Legislature when expenditures pursuant to Provision 2 are occurring at a rate that would exhaust the level of funding in Schedule (5) prior to the end of the fiscal year.

7. Any funds not expended in Schedule (5) by June 30, 2007 shall revert to the General Fund.

Action

7. *Perez v. Schwarzenegger* Court Order Compliance – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $5.8 million General Fund to provide additional supervisory staff for the dental offices at each institution necessary to implement the changes required by the recent stipulated agreement in the Perez lawsuit. This proposal would also provide additional staff at the two women's prisons to ensure that pregnant inmates receive dental services required by Chapter 608, Statutes of 2005.

Analyst's Recommendation. The LAO recommends reducing the amount of the request because (1) the settlement agreement requires the department to rollout inmate dental reforms at only *14* prisons in the budget year; and (2) the Finance Letter erroneously budgets the salary for supervisory dentists at a level higher than the chief dentist classification. In order to align the introduction of these additional positions with the *Perez* rollout schedule and reflect a more accurate level of compensation for the proposed supervisory dentist classification, the LAO recommends reducing the budget-year request by $3,035,777 and 14 positions.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends reducing the request by 14 positions and $3 million.

Action.

8. Telemedicine Program

The LAO's review found that opportunities exist for the CDCR to significantly expand its use of telemedicine in prisons, thereby enhancing public safety, generating cost savings, and improving inmates' access to care.
Department Is Underutilizing Telemedicine. The LAO notes that based on its own assessment of the records, CDCR estimates that increased usage of telemedicine could further reduce the number of outside medical visits department-wide by as much as 20,000 per year. The department estimates that if the 20,000 consultations had been done via telemedicine, it could have saved up to $17 million annually in transportation and medical guarding costs.

Prisons Not Required to Use Telemedicine; Policy Hinders Program Expansion. 27of CDCR's 33 prisons are equipped to receive telemedicine services. However, prisons with telemedicine equipment vary significantly in terms of their usage of the technology. In fact, of 9,090 telemedicine consultations in 2004-05, almost two-thirds (5,740) were conducted at just five prisons. The other 22 prisons accounted for just over one-third (3,350) of total consultations. Nine of the twenty-seven prisons with telemedicine equipment did not use the system at all, and thus did not generate any savings by avoiding outside trips to medical facilities.

Department Offers Limited Number of Medical Specialties Via Telemedicine. The department offers telemedicine services in psychiatry and about a dozen medical specialties, including dermatology, orthopedics, infectious diseases, neurology, and pain management. Unlike other correctional and non-correctional telemedicine programs in the country, however, the department

does not provide additional specialties via telemedicine such as cardiology; hematology; gastroenterology; and ear, nose, and throat.
Analyst's Recommendation. In order to maximize cost savings potential, the LAO recommends the enactment of trailer bill language that to increase the use of telemedicine in prisons by requiring the department to (1) establish guidelines for the use of telemedicine, (2) provide more medical specialties via telemedicine, and (3) set annual performance targets.

Staff Recommendation. Staff recommends adoption of the following budget bill language requiring the CDCR to establish guidelines for the use of telemedicine, and to establish performance targets.

> X. On or before January 1, 2007, the California Department of Corrections and Rehabilitation shall establish guidelines concerning the conditions under which inmates in need of medical specialty care are provided with a physician consultation through telemedicine rather than an in-person visit at an outside medical facility. The guidelines should take into consideration factors including, but not limited to, whether (a) a telemedicine consultation is medically appropriate, (b) a medical specialist is available to conduct a telemedicine consultation in a timely manner, and (c) the inmate in need of medical specialty services is assigned to a prison that has received telemedicine resources as part of the *Plata v. Schwarzenegger* rollout. Based on these guidelines, by March 1, 2007, the department shall establish monthly performance targets for prisons with a telemedicine capability regarding the total number and percentage of medical specialty consultations that are conducted by telemedicine rather than at community medical facilities, and provide a copy of the performance targets to the Joint Legislative Budget Committee. By June 30, 2007, the department shall provide a written report to the Joint Legislative Budget Committee on the extent to which the prisons achieved their performance targets. The report shall include any factors that may have prevented the department from meeting its performance targets, as well as the total estimated savings from using telemedicine.

Action

9. Performance Measures

At the hearing on March 29, the Subcommittee discussed creating new displays for the CDCR budget in the Governor's Budget, as well as including performance measures similar to measures included in the budgets during the 1980s.

Staff Recommendation. The CDCR has been reviewing the LAO proposed performance measures to determine its ability to provide the data required. While that review continues, staff recommends approving supplemental report language which includes the LAO proposed performance measures. Staff will continue to work with the CDCR to refine the language during conference committee.

Action.

10. Funding for Training of Deputies and Probation Officers – Finance Letter

Finance Letter Request. This Finance Letter proposes an augmentation of $19,465,000 from the Corrections Training Fund to provide funding to reimburse local correctional agencies for the costs of providing sheriffs' deputies and probation officers with training consistent with the standards developed by the Corrections Standards Authority. The proposal includes budget bill language specifying the reimbursement requirements for this program. It is also proposed that Item 5225-002-0170, which transferred money from the Corrections Training Fund to the General Fund be deleted in order to ensure that there are sufficient revenues in the Corrections Training Fund to support this program.

Staff Comments. This request restores the funding for this program which was cut in 2003-04.

Staff Recommendation. Staff recommends approval of the Finance Letter.

Action.

11. Finance Letter – Rutherford Funding Request.

Finance Letter Request. This Finance Letter requests 49.5 positions and $7.2 million related to the Rutherford v. Schwarzenegger lawsuit. The proposal requests the following:

- 4 Legal Analyst positions and $300,000 to perform workload related to reviews of hearings, research and writing decision review summaries for lifer parole inmates who have been granted parole by the BPH.
- 11.3 positions and $1.1 million to accommodate the increased volume of parole hearings.
- 22 positions and $3.6 million for psychologists and support staff to conduct evaluations of inmates services indeterminate sentences pending parole suitability hearings. The proposal includes funding for 17 staff psychologists, 9 contract psychologists, and 2 senior supervising psychologists.
- 7.2 positions and $1.7 million related to case records processing.
- 5 positions and $517,000 for Investigation Unit.

Analyst's Recommendation. The LAO recommends approval of the department's request with two technical adjustments relating to overtime for administrative staff, resulting in a total reduction of $973,000. At this time, the department has not provided sufficient justification for these funds. The LAO recommends approval of the remaining funds requested in this proposal, totaling $6,179,000. The request is consistent with the court settlement agreement to address the issues that contribute to substantial backlogs in lifer hearings.

Staff Recommendation. Staff recommends approval of the $973,000 reduction recommended by the LAO. In addition, staff recommends approval of the psychologist positions on a two-year limited-term basis pending additional discussions on the use of a validated risk assessment tool as a potential replacement or enhancement of the psych. Evaluation.

Action.

Projected Costs for the *Farrell* Remedial Plans *(dollars in thousands)*						
	2005-06		**2006-07**		**2007-08**	
Remedial Plan	**Positions**	**Funding**	**Positions**	**Funding**	**Positions**	**Funding**
Funding Provided in 2005-06 Budget						
Education Remedial Plan	208	$17,088	208	$20,886	208	$20,886
Interim Mental Health Remedial Plan	15	$1,215	15	$1,015	15	$1,015
Sex Offender Treatment Remedial Plan	20	$2,464	43	$4,394	43	$4,394
Disability Remedial Plan	12	$3,108	12	$2,811	12	$1,011
Subtotal Funding Provided in 205-06 Budget	*255*	*$23,875*	*278*	*$29,086*	*278*	*$27,306*
Funding Proposed in January 10 Budget						
Healthcare Remedial Plan			113	$7,530	113	$9,000
Safety and Welfare Remedial Plan**	105	$5,163	409	$47,470	620	$69,662
Subtotal Funding Proposed in January 10 Budget	*105*	*$5,163*	*522*	*$55,000*	*733*	*$78,662*
Finance Letter Proposals						
Safety and Welfare Remedial Plan Adjustments and Fund Shifts	-22	-$2,125	-23	-$4,536	614	$69,057
Mental Health Remedial Plan			186	$14,778	232	$20,813
Space Requirements to Implement Farrell		$2,948		$12,469	0.0	12,469
Subtotal Finance Letter Proposals	*-22*	*$823*	*163*	*$22,711*	*846*	*$102,339*
Totals	**338**	**$29,861**	**963**	**$106,797**	**1,857**	**$208,307**

* Estimated costs for 2006-07 and future years are subject to adjustments due to actual DJJ population.
** DJJ will be seeking current year funding for the Ward Safety Plan in legislation.

11. Safety and Welfare Remedial Plan.
The Budget and Finance Letters propose funding of $42.9 million and 386 positions for the Safety and Welfare Remedial Plan. The Remedial plan envisions a multiyear timeframe to implement the Safety and Welfare Remedial Plan. When the plan is fully rolled out in 2009-10, the annual cost is proposed to be $94 million for support of 828 additional staff. The budget notes that the requested resources are based on an average daily population of 2,800 incarcerated wards. The actual amount of staff and funding needed in the out-years would be adjusted through the annual population adjustment process. The major features of the plan include the following:

- Classify facilities and living units according to the types of wards that each facility and unit is best suited to accommodate.
- Acquire an objective risk/needs assessment instrument for proper placement and treatment of wards in DJJ facilities and living units.
- Match the type and intensity of supervision and programming to wards' risk level and educational/treatment needs.
- Replace punitive measures against violent and disruptive wards with intensive behavioral treatment (such as individual counseling).
- Increase staff-to-ward ratios in facilities by reducing living unit sizes and hiring additional custody and treatment staff.
- Train staff on establishing a positive and therapeutic environment for wards based on "community norms" such as teamwork, accountability, and nonviolent resolution of conflict.

Staff Comments. At the hearing on April 27, the Subcommittee discussed possible implementation strategies, including whether a two-prong approach to implementation of the Remedial Plan doesn't make sense – one in which DJJ works to reduce the sizes of living units in the most violent facilities to increase safety, while DJJ implement a meaningful, results-oriented treatment programs at one facility.

Staff Recommendation. Staff recommends approval of the Safety and Welfare Remedial Plan with budget bill language directing DJJ to focus implementation of treatment programs at one facility in the budget year and requiring updates on the implementation of the Remedial Plan.

> Provision X. Within fiscal year 2006-07, the Division of Juvenile Justice will implement Behavior Treatment Programs in at least seven living units, enhanced Core Treatment Programs in at least 12 living units, and at least one Re-entry living unit. In order to demonstrate measurable outcomes, the Division of Juvenile Justice will focus the implementation of Core Treatment Programs at one individual facility in the first fiscal year. No later than September 15, 2006 and March 15, 2007, the Division of Juvenile Justice will report to the Joint Legislative Budget Committee on specific performance measures by which the department plans to evaluate these programs, the baseline measurements for these programs, as well as projected implementation targets and projected outcomes for March 2007 and September 2007, related to the implementation of the *Farrell* remedial plans. Performance measures should include both process and outcome measures consistent with a critical path for project implementation.

Action.

12. Update to the Safety and Welfare Remedial Plan – Finance Letter

Finance Letter Request. This Finance Letter proposes a reduction of $4.5 million General Fund and an increase of $190,000 from federal funds to update the Safety and Welfare Remedial Plan. The administration indicates that the adjustment is due to minor modifications made to some of the implementation timeframes, corrections to costing errors, and the availability of federal funds to address a portion of the costs.

Staff Recommendation. Staff recommends approval of the Finance Letter.

Action.

13. DJJ Mental Health Remedial Plan – Finance Letter

Finance Letter Request. This Finance Letter proposes $14.8 million and 186 positions to implement the Mental Health Remedial Plan as a result of the Farrell lawsuit. Expenditures would grow to a total of $20.8 million and 232 positions in 2007-08.

The proposal calls for standardizing staffing to provide consistent coverage among the 8 facilities, establishing mental health program leadership at headquarters, providing training, and developing policies and procedures.

The first year of implementation will focus on establishing an Implementation Team; establishing a Mental Health Training Team; providing staffing to meet the ratio of youth per staff for the Core Outpatient Services Program; establishing a Psychology Intern Program; standardizing and upgrading 12 existing residential mental health programs; and adding one new Specialized Counseling Program. The second year of implementation will add one new Intensive Treatment Program, and one new Intensive Behavior Treatment Program.

Analyst's Concerns. The LAO notes that the funding proposal seems to be consistent with the remedial plan. However, the plan is currently being rewritten by four court-appointed experts. The revised plan is scheduled for completion at the end of May 2006. Revisions to the plan could impact the department's resource needs. The LAO recommends that the department report at hearings on aspects of the plan that may change as a result of the experts' recommendations and the process it would use to modify the funding request to reflect a potentially revised remedial plan.

Action.

14. Control Language to Ensure Money is not transferred from CSA or BPH or DJJ to the adult side of CDCR.

Staff Comments. At the hearing on April 27, the Subcommittee discussed concerns regarding the adequacy of the base budgets for the Corrections Standards Authority (CSA), the Board of Parole Hearings (BPH), and the Division of Juvenile Justice (DJJ). In addition, the Subcommittee raised concerns that funds cold be moved from CSA, BPH, or DJJ to cover shortfalls in the adult corrections budget.

Staff Recommendation. Staff recommends approval of the following budget bill language that would restrict the transfer of funds from CSA, BPH, or DJJ to adult prison operations.

> 5225-001-0001
> Provision X. Notwithstanding Section 26.00 of this act, the Department of Finance may not authorize transfer of expenditure authority between Schedules (2), (3), (4), (5), (6), or (9) and Schedules (7), (8), (10), or (11).

Action

15. Juvenile Justice Community Reentry Challenge Grants

Staff Comments. At the hearing on May 4 the Subcommittee discussed ways to enhance community infrastructure to provide additional services for juvenile parolees in order to improve outcomes and successful re-integration. At that time, the Chair of the Subcommittee directed staff to examine the feasibility of establishing some kind of challenge grant program to provide transitional services to parolees, both adult and juvenile, as well as options for intermediate placements for appropriate parole violators.

This proposal would provide $30 million for a Juvenile Justice Community Reentry Challenge Grant Program to be administered by the Division of Juvenile Justice for the purpose of improving the performance and cost-effectiveness of post-custodial reentry supervision of juvenile parolees, reducing the recidivism rates of juvenile offenders, and piloting innovative re-entry programs consistent with the Division's focus on a rehabilitative treatment model. This program will award grants on a competitive basis to applicants that demonstrate a collaborative and comprehensive approach to the successful community reintegration of juvenile parolees, through the provision of wrap-around services for juvenile parolees.

A minimum of 75 percent of the grant award will be for providing program services to individuals on parole from the DJJ. The remainder of the grant award may additionally be used for providing program services to youthful offenders under the jurisdiction of the county or local juvenile court who are transitioning from out-of-home placements back into the community.

Staff Recommendation. Staff recommends approval of $30 million for the Juvenile Justice Community Reentry Challenge Grant Program, and adoption of trailer bill language implementing the program.

Action.
Proposed Trailer Bill Language for the Juvenile Justice Community Reentry Challenge Grant Program.

1. This article shall be known and may be cited as the Juvenile Justice Community Reentry Challenge Grant Program.

2. It is the intent of the Legislature to support the systematic and cultural transformation of the Division of Juvenile Justice into a rehabilitative model that improves youthful offender outcomes and reduces recidivism. As a key component of meeting these goals, it is further the intent of the Legislature to support the development of local infrastructure that provides comprehensive re-entry services for juvenile parolees. These services shall be complementary to, and consistent with, the long-term objective of providing a continuum of state and local responses to juvenile delinquency that enhance public safety and improve offender outcomes.

3. (a) The Juvenile Justice Community Reentry Challenge Grant Program shall be administered by the Division of Juvenile Justice for the purpose of improving the performance and cost-effectiveness of post-custodial reentry supervision of juvenile parolees, reducing the recidivism rates of juvenile offenders, and piloting innovative re-entry programs consistent with the Division's focus on a rehabilitative treatment model.

(b) This program shall award grants on a competitive basis to applicants that demonstrate a collaborative and comprehensive approach to the successful community reintegration of juvenile parolees, through the provision of wrap-around services that may include, but not be limited to, the following:

(1) Transitional or step-down housing, including but not limited to group homes subject to Section 18987.62 of the Welfare and Institutions Code.
(2) Occupational development and job placement.
(3) Outpatient mental health services.
(4) Substance abuse treatment services.
(5) Education.
(6) Life skills counseling.
(7) Restitution and community service.
(8) Case management.
(9) Intermediate sanctions for technical violations of conditions of parole.

(c) To be eligible for consideration, applicants shall submit a program plan that includes, but is not limited to, the following:

(1) The target population.
(2) The type of housing and wrap-around services provided.
(3) A parole and community reentry plan for each parolee.
(4) Potential sanctions for a parolee's failure to observe the conditions of the program.
(5) Coordination with local probation and other law enforcement agencies.
(6) Coordination with other service providers and community partners.

4. The Division of Juvenile Justice shall award grants on a competitive basis to counties and non-profit organizations that provide funding for three years.

(a) A minimum of 75 percent of the grant award shall be for providing program services to individuals on parole from the Division of Juvenile Justice. The remainder of the grant award may additionally be used for providing program services to youthful offenders under the jurisdiction of the county or local juvenile court who are transitioning from out-of-home placements back into the community.
(b) The Division shall award grants in a manner that maximizes the development of meaningful and innovative local programs to provide comprehensive reentry services for juvenile parolees.

5. The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall establish minimum standards, funding schedules, and procedures for awarding grants, which shall take into consideration, but not be limited to, all of the following:
(a) Size of the eligible population.
(b) Demonstrated ability to administer the program.
(c) Demonstrated ability to develop and provide a collaborative approach to improving parolee success rates that includes the participation of non-profit and community partners.
(d) Demonstrated ability to provide comprehensive services to support improved parolee outcomes, including housing, training, and treatment.
(e) Demonstrated ability to provide effective oversight and management of youthful offenders or young adults who have been committed to a detention facility, and parolees that require re-entry supervision and control.
(f) Demonstrated history of maximizing federal, state, local, and private funding sources.

6. (a) Each grant recipient shall be required to establish and track outcome measures, including, but not limited to:
(1) Annual recidivism rates, including technical parole violations and new offenses.
(2) Number and percent of participants successfully completing parole.
(3) Number and percent of participants engaged in part-time and full-time employment, enrolled in higher education and vocational training, receiving drug and substance abuse treatment, and receiving mental health treatment.
(4) Number and percent of participants that obtain stable housing, including the type of housing.
(b) The Division of Juvenile Justice, in consultation with the Corrections Standards Authority, the Chief Probation Officers of California, and experts in the field of California juvenile justice programs, shall create an evaluation design for the Juvenile Justice Community Reentry Challenge Grant Program that will assess the effectiveness of the program. The Division shall develop an interim report to be submitted to the Legislature on or before March 1, 2009, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2011.

7. Funding for the Juvenile Justice Community Reentry Challenge Grant Program shall be provided from the amount appropriated in Item 5225-102-0001 of the Budget Act of 2006. Up to 5 percent of the amount appropriated in Item 5225-102-0001 of the Budget Act of 2006 shall be transferred upon the approval of the Director of Finance, to Item 5225-001-0001 for

expenditure as necessary for the Division to administer this program, including technical assistance to counties and the development of an evaluation component.

16. Chuckawalla Valley State Prison, Blythe: Wastewater Treatment Plant Improvements -- Preliminary plans

Budget Request. The budget proposes $455,000 for preliminary plans for wastewater treatment plant improvements.

The LAO notes that the department has now provided information which indicates that the trickling filters should only be rehabilitated if the RWQB provides a permit waiver to the prison, and if the permit waiver is denied a new type of wastewater treatment (most likely an oxidation ditch) will be needed to treat the effluent to the acceptable water discharge quality.

Since something must be done, and the permit waiver decision will not be issued until late July 2006, the LAO proposes budget bill language to approve the project but, with PWB approval, divert the funds to a new wastewater treatment system at Chuckawalla if the permit waiver is not granted. This way the prison can move forward with a project immediately but also respond if the permit is denied. The oxidation ditch is estimated to cost about $2-3 million more total than rehabilitating the filters.

The LAO recommends approving the project with the following Budget Bill Language:

> The funds appropriated in this item are to be utilized for rehabilitating the existing trickling filter technology pending approval of a wastewater discharge permit waiver. If no wastewater discharge permit waiver is issued to the department, pending Public Works Board approval the funds are to be utilized toward a new wastewater treatment system capable of meeting the wastewater discharge requirements.

Staff Recommendation. Staff recommends approval of the funding and the LAO recommended budget bill language.

Action.

Division of Juvenile Justice Core Treatment Facility Study – Finance Letter

Finance Letter Request. This Finance Letter proposes an increase of $3 million to conduct a detailed study for a core treatment facility at the Northern California Youth Correctional Center, Stockton. This study will provide a detailed schematic design for a prototype core treatment facility to be built at a currently unoccupied site at the Northern California Youth Correctional Center.

Analyst Concerns. The LAO has raised concerns with this proposal.

Action.

Control Section 24.10

Transfer to the Corrections Training Fund – Finance Letter

Finance Letter Request. This Finance Letter proposes to add language to Control Section 24.10 to transfer $9.8 million from the Driver Training Penalty Assessment Fund to the Corrections Training Fund. These funds would be used to reinstate funding for the Corrections Training Program within the Corrections Standards Authority.

Staff Recommendation. Staff recommends approval of the Finance Letter. This action would be consistent with approving the funding to restore the funding for local correctional law enforcement training within the CSA budget.

Action.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Mike Machado, Chair
Christine Kehoe
Tom McClintock

Thursday, May 18, 2006
9:30
Room 112

Agenda Part B

Addendum

Addendum to Subcommittee # 4 Agenda Part B

5225 Department of Corrections and Rehabilitation

At the hearing on May 4, the Subcommittee deleted five pieces of flexibility language in the budget bill related to the CDCR budget. In response the Secretary asked the Subcommittee to consider language limit the legal and fiscal liabilities in instances where indebtedness is the result of court-mandated activities and increased inmate, ward, and population populations above the budgeted level.

Staff Recommendation. Staff recommends approval of the following budget bill language.

> X. Notwithstanding Government Code section 13324 or Section 32.00 of this Act, no State employee shall be held personally liable for any expenditure or the creation of any indebtedness in excess of the amounts appropriated therefore as a result of compliance with court mandated activities and increased inmate, ward, and parolee populations above the budgeted level.

Action