Senate Budget and Fiscal Review

Subcommittee No. 4 Pt 2 2008 Agendas

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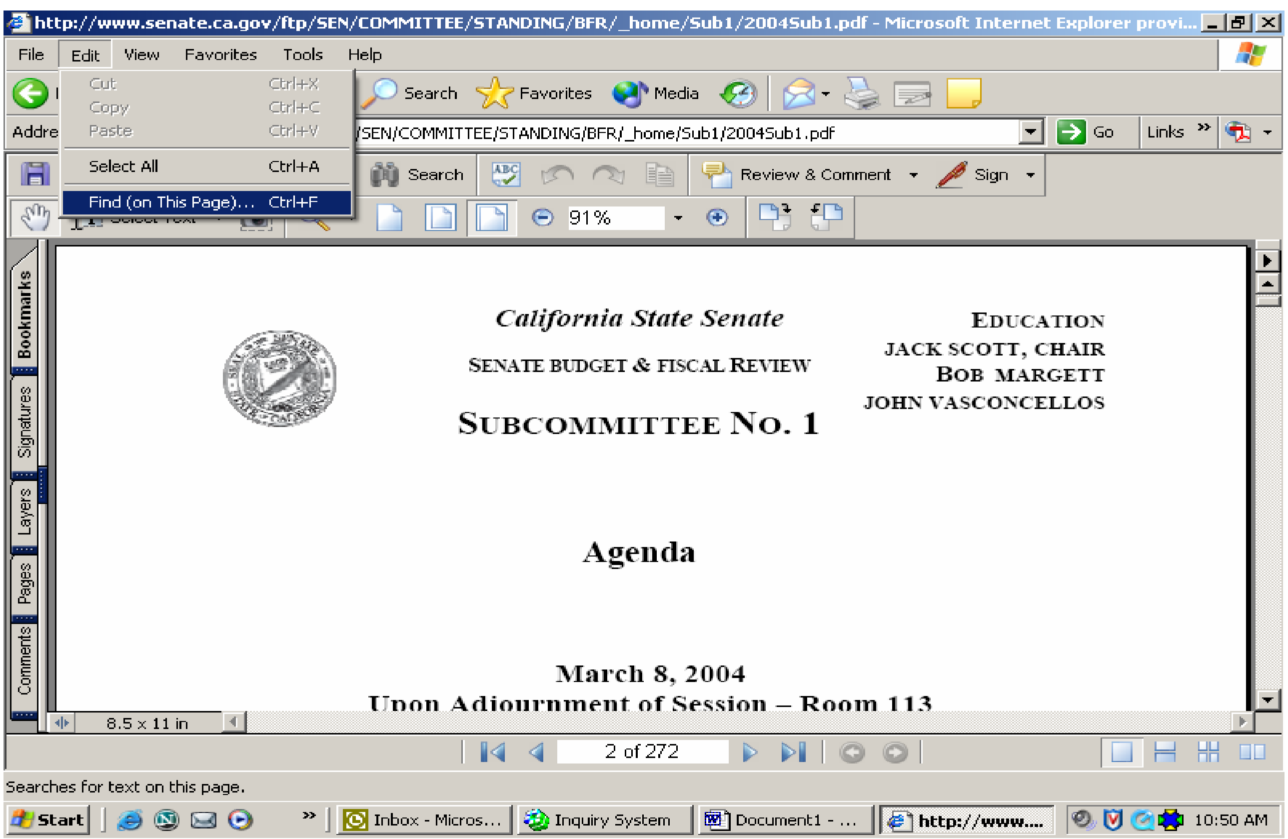

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom Harman
Christine Kehoe

Agenda Part "A"

Monday, May 5, 2008
10:00 a.m.
Room 3191

Consultant: Brian Annis

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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 January Governor's Budget proposed $1.929 billion in total expenditures (no General Fund) and 11,195 positions for the CHP, an increase of $49 million and 227 positions. The issues contained herein for the CHP are those left open at the March 24, Subcommittee hearing and April Finance Letters.

Issues Proposed for Vote Only:

1. **Replacement Facilities (April Finance Letters (FL) #1 & #3, May 1, FLs #1 & #2).** The April FLs request $1.9 million in 2008-09, and $4.8 million in 2009-10 (both from the Motor Vehicle Account) for two capital outlay projects for new area offices that would use the build-to-suit lease-purchase contracting method. The Administration requests the addition of new budget bill language that would establish a control agency approval process prior to the CHP entering a contract, and also would require 30-day reporting to the Joint Legislative Budget Committee prior to contract signing. In this case, the Department of General Services calculates that the lease-purchase method would be most cost efficient and will speed completion. The May FLs request $2.5 million in 2008-09 for preliminary plans and working drawings for two state-owned projects previously approved in 2006-07, but delayed due to site acquisition problems.

   Background / Detail: The four projects are as follows:

   - **Tracy Area Office – Relocation (April FL #1):** No funding is requested for 2008-09 and $2.2 million is requested for 2009-10 to relocate the Tracy office due to the current lease not being extended by the owner. Even though no budget augmentation is requested until 2009-10, the CHP requests approval now because they intend to enter into a contract in 2008-09. Of the 2009-10 costs, $642,000 is one-time and $1.5 million is ongoing. If the State chooses to exercise the purchase option upon project completion, the cost would be $13.8 million.
   - **Bakersfield Area Office – Relocation (April FL #3):** $1.9 million is requested for 2008-09 and $3.3 million is requested for 2009-10 to relocate the Bakersfield office due to the size and accessibility deficiencies of the current state-owned facility. The Administration indicates that upon occupancy in June 2012, the ongoing augmentation for the rent cost will be $3.2 million, or the State will exercise the purchase option at a cost of $33.2 million.

- **Oceanside Area Office – Relocation (May FL #1):** $1.023 million is requested for preliminary plans. $2.8 million was appropriated for site acquisition and preliminary plans in 2006-07; however, the site acquisition was delayed and the $768,000 appropriated for preliminary plans reverted. The Administration has now increased the cost estimate for preliminary plans to $1.023 million. Total costs through construction will be approximately $17 million.
- **Oakhurst Area Office – Relocation (May FL #2):** $1.441 million is requested for preliminary plans and working drawings. $1.1 million was appropriated for site acquisition and preliminary plans in 2006-07; however, the site acquisition was delayed and the $414,000 appropriated for preliminary plans reverted. The Administration has now increased the cost estimate for preliminary plans to $568,000 and also requests $873,000 for working drawings. Total costs through construction will be approximately $9 million.

According to the 2008 California Infrastructure Plan, the CHP occupies 102 area offices, 25 communications centers, 8 division offices, and 39 other facilities including the Sacramento headquarters and the West Sacramento academy.

2. **Computer Aided Dispatch System – Cost Deferral (April Finance Letter # 5).** The Administration requests a reversion of $6.7 million (Motor Vehicle Account) in funds appropriated in 2007 for the Computer Aided Dispatch System. This recognizes the expenditure deferrals that have occurred due to contracting delays for the project.

3. **New Inland Empire Traffic Management Center – Cost Savings (April Finance Letter # 4).** On March 24, the Subcommittee approved the Administration's request for an augmentation of $1.9 million ($265,000 ongoing) in Motor Vehicle Account funds for moving costs and higher lease costs at the new Inland Empire Traffic Management Center (IETMC). This April Finance Letter would reduce the amount of the augmentation by $321,000 because a less costly alternative has been identified for rerouting of the radio microwave path. The Department of General Services identified available space within an existing vault and therefore a new vault is no longer required.

Staff Recommendation on Vote-Only Calendar: Approve the requests.

Vote:

Issues Proposed for Discussion / Vote:

4. **Enhanced Radio System (Required Report).** The budget includes $116.3 million for the 2008-09 cost of upgrading the CHP's public safety radio system. In 2006-07, the Legislature approved this five-year project that had total costs of about $500 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. As part of last year's project approval, the Legislature required annual project reporting for the life of the project - due each March 1. When the Subcommittee met March 24, 2008, the report was outstanding, but it has since been received and reviewed by staff.

   2008 CHP Radio Report: The 2008 report indicates that the project is still proceeding to achieve a 2010-11 completion as originally planned when the project was approved two years ago. Last year's report indicated that the cost of the remote infrastructure such as towers, was more than anticipated and the Administration proposed to down-scope the project to reduce the amount of new equipment needed on the towers. The original cost estimate was $494 million, and last year's estimate (with the down-scoped project) was $480 million. This year's report indicates costs totaling $472 million. While the project has not been re-scoped since last year, the following cost changes are indicated:

   - Mobile Equipment: total costs decrease from $161 million to $158 million.
   - Portable Equipment: total costs decrease from $44 million at $19 million.
   - Infrastructure – Remote Equipment: total costs increase from $205 million to $242 million (including tower-related capital outlay).
   - Services and Miscellaneous: total costs decrease from $71 million to $61 million.

   Staff Comment: In addition to the cost changes indicated above, more of the costs are shifted to out-years. The report indicates 2007-08 and 2008-09 cost deferrals relative to the amounts included in the Governor's Budget, such that $3.7 million would be unexpended in 2007-08 and $12.8 million would be unexpended in 2008-09.

   Staff Recommendation: Decrease the 2007-08 and 2008-09 budgets by a total of $16.5 million to reflect the expenditure savings indicated in the CHP report.

   Vote:

5. **Officer Staffing Augmentation (BCP #1 & Finance Letter #5).** The Governor requests $21.5 million ($22.4 million ongoing) to add 70 uniformed positions, 11 uniformed management positions, and 33 non-uniformed support positions in 2008-09 (an additional 50 uniformed positions would be added in 2009-10 for a total increase of 120 Patrol Officers). Over the last two years, the Legislature has approved a staffing increase of 471 positions (360 Officers, 32 uniformed managerial, and 79 non-uniformed support staff). The CHP indicates that this year's budget request would help address the continual increase in workload associated with population growth throughout the state. It is important to note, the Governor's Budget includes $40 million in one-time savings from about 300 vacant officer positions in 2008-09 including those requested in this BCP. April Finance Letter #5 indicates that the BCP overestimated associated benefit costs by $634,000 and requests to reduce the funding by that same amount.

   Detail / Background: This issue was discussed at the March 24 hearing and held open so the CHP could provide additional detail. To better outline the multiple components of this request, the BCP is split below into four components:

   - CHP Officers (70 requested for 2008-09 and 50 requested for 2009-10): As discussed at the prior hearing, the CHP does not anticipate any of the 70 requested positions will be filled in 2008-09 due to base vacancies. After the $40 million vacancy budget reduction, there is no funding included for these positions in 2008-09. However, the CHP argues that rejecting the 120 new positions would slow the hiring pipeline in 2008-09 because cadets entering the August 2009 class would normally receive hiring commitments starting November 2008, and cadets entering the December 2009 class would receive hiring commitments starting March 2009.

   - Direct Managerial and Support (11 uniformed positions and one non-uniformed position are requested for 2008-09): The CHP indicates that these positions are directly related to newly requested officer staffing. One new Lieutenant position is requested (2.0 positions were added in 2006-07); ten new Sergeant positions are requested (30.0 positions were added in 2006-07); and one Accounting Technician is requested (1.0 position was added in 2006-07).

   - Base Deficiencies (24 positions are requested for 2008-09): The CHP indicates that 24 new positions are not related to new officers but are related to base staffing deficiencies at the CHP. 15 Office Technicians/Office Assistants are requested (35.0 positions were added over 2006-07 and 2007-08); eight Automotive Techs are requested (11 were added over 2006-07 and 2007-08); and one Associate Business Management Analyst is requested (1 position was added in 2007-08).

   - Information Technology Shift from Contractors to State Staff (8 new positions are requested for 2008-09): The CHP requests a shift of $731,000 from operating expenses to personnel services to reduce contracting and hire additional state information technology staff. The CHP indicates that this request is partially related to a State Personnel Board decision that found more activities should be performed by state staff.

LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends that the Legislature reject this proposal because by CHP's own admission, they will be unable to fill all the existing Officer vacancies and grow staff to the level requested in this BCP. Additionally, the managerial and support positions requested to support the new officers would not be needed if the new Officers are not hired in 2008-09. Due to the existing $40 million one-time budget adjustment for vacancies that offsets most of the $21.5 million BCP cost, the LAO indicates only a $4 million reduction to the Governor's Budget would be necessary if this BCP is rejected.

Staff Comment: The analysis of this BCP has been complicated because the CHP combined staffing requests for disparate purposes in a single BCP instead of submitting each request separately with individual justification and detail.

- <u>For CHP Officers</u>, staff notes that while 70 positions are requested in 2008-09 and 50 positions are requested to 2009-10; in reality, the CHP hiring plans suggest no new positions are needed for 2008-09 and 120 new positions are needed for 2009-10. This is already a two-year request, so the Subcommittee may want to change the timing of the staff from [70 in 2008-09 / 50 in 2009-10] to [zero in 2008-09 /120 in 2009-10].
- <u>For Direct Managerial and Support</u>, these positions would seem reasonably delayed to 2009-10 given high vacancies in base staffing and the managerial and support positions added in 2006-07.
- <u>For Base Deficiencies</u>, 56 positions were added over 2006-07 and 2007-08 to partially address base deficiencies. Given the general Subcommittee direction not to augment departments this year for base administrative deficiencies, it is unclear why the CHP cannot defer augmentation to another year, again, given the 56 positions recently added to partially address these issues.
- <u>For IT Staffing Shift</u>, the Subcommittee has approved similar requests this year for Caltrans, which also faced State Personnel Board (SPB) orders to shift from contractors to state staff. However, it should be noted that Caltrans reflected OE&E savings where state staff were less expensive that contractors. Staff believes the CHP shift should also result in net savings, and that savings should be reflected in the budget. Of the eight positions requested, five directly involve a shift from contractors to state staff. According to the CHP, the contracts have a cost of $590,000 and the new associated State staff would have a cost of $444,000. The Subcommittee may want to reduce the proposed budget by $146,000 to reflect this savings.

Staff Recommendation:

- Approve no CHP Officer positions for 2008-09, but approve 120 new Officer positions for 2009-10. Add Supplemental Report Language (SRL) on CHP vacancies and the updated Officer hiring plan due next March 1, so the 2009-10 budget can be further adjusted as warranted based on the number of academy graduations.
- Reject the new staff and related funding requested for Direct Managerial and Support / Base Deficiencies.
- Approve 8.0 new positions to shift IT workload from contractors to state staff, but reduce funding by $144,000 to reflect the savings from this shift.
- Approve the Finance #5 technical correction to the budget savings for vacant CHP Officers.

Vote:

6. **Fuel Costs (Staff Issue).** In 2006-07, the Legislature approved a $2.7 milllion ongoing budget augmentation to the CHP's budget for fuel purchases. That augmentation brought CHP funding to a level consistent with fuel prices averaging $2.56 per gallon. Gasoline prices are now significantly higher and the CHP will have to redirect funding from other areas to cover the cost. If gasoline averages about $3.30 per gallon in 2008-09, the CHP will have to redirect about $8 million, and if gasoline averages about $4.00 per gallon, the CHP will have to redirect about $16 million.

Staff Comment: Given the large unbudgeted cost increase for gasoline, the CHP should indicate how they propose to cover this cost. The Subcommittee may want to revisit funding for gasoline purchases after the May Revision when new Department of Finance forecasts of gasoline prices are available.

Staff Recommendation: Take no action at this hearing, but revisit after the May Revision as warranted.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Monday, May 5, 2008
10:30 a.m.
Room 3191

Item **Department** **Page**

State Administration—General Government—Judiciary—Transportation

Public Safety Initiatives

Safe Neighborhoods Act: Protect Victims, Stop Gang, Gun, and Street Crime

Initiative Summary. The Safe Neighborhoods Act: Protect Victims, Stop Gang, Gun, and Street Crime Initiative (SAFE Initiative) is currently being circulated to gather sufficient signatures to qualify for the November 2008 ballot. The initiative makes several changes to current law relating to criminal offenders. The proposed changes are summarized below:

- **Creates New State-Funded Criminal Justice Programs**. Requires that $965 million in state revenues be directed to fund local law enforcement ($897 million) and new state programs ($68 million). This is approximately $365 million more than what was allocated in the 2007-08 Budget Act. In addition, the LAO estimates that the allocation to local law enforcement will grow by approximately $10 million annually since the initiative requires that the state also fund annual inflation adjustments. The measure prohibits the state or local governments from using the new funding provided by the initiative to supplant the funds provided for the same purpose in the 2007-08 Budget Act.

- **Increases Criminal Penalties for Some Crimes.** Increases criminal penalties for various crimes, including crimes related to gang participation and recruitment, intimidation of individuals involved in court proceedings, possession and sale of methamphetamines, vehicle theft, removing or disabling a GPS device, and firearms possession. The LAO estimates that this will likely result in more offenders being sentenced to state prison or jail for the crimes specified in the measure for a longer period of time.

- **Changes Parole Policies.** Reduces the average parole caseload below current levels and requires the state to pay the cost of monitoring sex offenders who are required to be monitored by GPS for life.

- **Other Changes.** Makes various other changes to state laws affecting the criminal justice system, including (1) requiring DOJ to establish two statewide databases related to gang information, (2) expanding the circumstances in which hearsay evidence is admissible in court, (3) making it easier for local law enforcement agencies to bring lawsuits against members of street gangs, (4) authorizing counties to operate temporary jail facilities that would be required to meet only local health and safety codes that apply to residences, and (5) prohibiting persons charged with a violent or gang-related felony from being released on bail or their own recognizance pending trial if he or she is illegally in the United States.

A more detailed summary is included in the LAO's review and fiscal analysis that is attached to this report in Attachment A.

LAO Fiscal Impact. The LAO's fiscal analysis of this initiative identifies fiscal impacts in three areas. These areas are summarized below:

- **Increases State Funding for Criminal Justice Programs.** As mentioned above, the initiative provides $965 million in state funds for expanded state and local criminal justice programs, including $897 million to fund local criminal justice programs. This is approximately $365 million more than what was provided in the 2007-08 Budget Act. The funding for these programs would grow by about $10 million annually to fund a cost-of-living adjustment required by the initiative. The LAO also estimates that this initiative would reduce General Fund revenues by $13 million.

- **Increases State Prison and Parole Expenditures.** The LAO estimates that the initiative would increase state prison and parole expenditures by at least a *couple hundred million dollars annually* due to increased penalties for crimes, reduced parole agent caseloads, and the cost of lifetime GPS monitoring for some sex offenders discharged from parole supervision. The LAO also estimates that this initiative may also result in over $500 million in one-time costs associated with building new prison facilities. The LAO also notes that the expanded funding for local law enforcement could result in increased arrests and/or increased prevention and intervention that reduces crime, but the LAO finds that these effects are unknown.

- **Many Other Impacts Likely.** The LAO has identified many other potential impacts of this initiative on trial courts, county jails, and other government services. However, while potentially significant, the LAO finds that the net fiscal impact of this initiative on these services is unknown.

The LAO finds that the additional expenditures required by this initiative would not be required until 2009-10. A more detailed summary of the LAO's fiscal analysis is included in the LAO's review and fiscal analysis that is attached to this report.

Potential Impacts on Budget Discussions. While the majority of the proposed expenditures in the SAFE Initiative would not be required until the 2009-10 budget year, its passage could impact the state's ability to successfully implement reform efforts being discussed in the Subcommittee to help the state address its significant budget shortfall.

At the April 17 meeting of this Subcommittee, testimony was heard regarding $538 million in local law enforcement subventions included in the Governor's budget. The LAO recommended reducing certain of these initiatives by 44 percent because they lacked specific statewide objectives, demonstrated poor results in achieving their goals, or could be funded by other special fund sources. All of these subventions would be made permanent and expanded by the SAFE Initiative.

At the March 12 and April 17 meetings of this Subcommittee, testimony was heard on a proposal by the LAO to realign a portion of the parole population to local probation. The LAO recommended a proposal that would save the state approximately $495 million in the budget year by redirecting existing revenues to support a realignment of some non-violent, non-serious offenders. The Subcommittee also discussed general principles, outlined by the LAO, which might be considered in realigning government services to improve the outcomes of government programs. These principles include creating financial incentives that promote success and ultimately reduce the size of state government. Staff finds that the SAFE Initiative, by fixing state funding for local programs, may complicate the state's ability to enact realignment reforms that could improve financial incentives that promote success and ultimately reduce the size of government.

At the March 12 meeting of the Subcommittee, testimony was heard on various proposals to reduce the state prison and parole population, including the Governor's proposal to release some inmates from prison early and place some inmates on summary parole. Staff finds that the SAFE Initiative may complicate the Legislature's ability to enact these policies. For example, the policies set in the SAFE Initiative can only be amended with a four-fifths vote of the Legislature or a subsequent vote of the people.

Victims' Bill of Rights Act of 2008: Marsy's Law

Initiative Summary. The Victims' Bill of Rights Act of 2008: Marsy's Law Initiative (Marsy's Law) has turned in the signatures required to be qualified for the November 2008 ballot. The initiative amends the State Constitution and various statutes relating to (1) the legal rights of crime victims and restitution, (2) restrictions on the early release of inmates, and (3) the granting and revocation of parole. The proposed changes are summarized below:

- **Expands Legal Rights of Crime Victims and Restitution.** Requires that restitution be ordered in every case in which a victim suffers a loss and requires that any funds collected by the court or local law enforcement agencies go to pay restitution first, thereby prioritizing restitution payments over other fines and obligations an offender may legally owe. Also expands the types of criminal proceedings that victims have the legal right to attend and requires local law enforcement to provide victims with a "Marsy's Rights" card detailing victim's rights. This initiative also places various legal rights for victims in the California Constitution, including specifying that the safety of a crime victim must be taken into consideration by judges in setting bail for offenders arrested for crimes.

- **Restricts Early Release of Prison and Jail Inmates.** Amends the California Constitution to specify that criminal sentences imposed by the courts be carried out in compliance with the courts' sentencing orders and shall not be substantially diminished by early release policies to alleviate overcrowding in prison or jail facilities.

- **Modifies Parole Procedures.** Provides that life-term inmates who were denied parole would generally have to wait longer for reconsideration by the Board of Parole Hearings (BPH), sometimes as long as 15 years before they would again have a parole consideration hearing. Also changes parole revocation procedures required under the *Valdivia* court settlement, including lengthening deadlines for probable cause hearings and hearings on revocation charges, and reducing parolee access to legal counsel.

A more detailed summary is included in the LAO's review and fiscal analysis that is attached to this report in Attachment A.

LAO Fiscal Impact. The LAO's fiscal analysis of this initiative identifies fiscal impacts in three areas. These areas are summarized below:

- **Increased State Prison and County Jail Costs.** The LAO estimates that there would be potential increases in state prison and county jail operating costs due to the provisions restricting the early release of inmates that amount to *hundreds of millions of dollars annually*. The LAO notes that, currently, the state does not generally release inmates early from prison so this amendment would probably have no fiscal impact. However, the LAO notes that many county jails currently operate under population limits that were required by past federal court litigation in response to overcrowded conditions. Given that these population limits were imposed by federal courts it is unclear how this state constitutional amendment would affect jail operations and the fiscal impact in these counties.

- **Potential Savings from Parole Board Changes.** The LAO estimates that changes to the hearing process for life-term inmates could result in *annual savings of millions of dollars*. The LAO estimates that the changes to the parole revocation process could result in *annual savings in the low tens of millions of dollars* if enacted. Furthermore, the LAO also estimates that these two policy changes would further increase state costs to the extent that these policies would result in additional offenders being held in prison.

- **Impacts Other Programs.** The LAO estimates that the changes to the restitution process could impact other local and state programs funded from fines and penalties collected from criminal offenders because the initiative mandates that all monies first collected from the defendant be paid directly to the victim. However, the LAO finds that this impact may be offset by provisions that would enable the trial court or local law enforcement agency to improve collection of restitution.

A more detailed summary of the LAO's fiscal analysis is included in the LAO's review and fiscal analysis that is attached to this report.

Potential Impacts on Budget Discussions. The passage of Marsy's Law could impact the state's ability to successfully implement criminal justice reform efforts being discussed in this Subcommittee to help the state address its significant budget shortfall. Furthermore, if passed, this initiative will result in increased costs to the state in the budget year.

At the March 12 meeting of the Subcommittee, testimony was heard on various proposals to reduce the state prison and parole population, including the Governor's proposal to release some inmates from prison early and place some inmates on summary parole. Staff finds that the constitutional amendment included in Marsy's Law may restrict the ability of the Legislature to enact an early release policy such as the one proposed by the Governor.

Furthermore, staff finds that many of the provisions of this initiative related to parole revocation directly undo policies that were required in the *Valdivia* settlement agreements that resulted from federal litigation claiming the state violated the U.S. Constitution. This case is still being monitored by the federal court. Staff finds that the implementation of Marsy's Law may trigger further court orders, thereby negating any savings in this area.

At the April 9 meeting of this Subcommittee, testimony was heard regarding the fiscal imbalance in the Restitution Fund managed by the Victim Compensation and Government Claims Board. The LAO notes that the revenues to this fund may be diminished by this initiative given the requirement that restitution be paid directly to the victim prior to collecting fines and penalties for other state and local programs like those funded from the Restitution Fund.

Nonviolent Offender Rehabilitation Act of 2008

Initiative Summary. The Nonviolent Offender Rehabilitation Act of 2008 (NORA Initiative) is currently being circulated for signatures to qualify for the November 2008 ballot. The initiative contains provisions that (1) expand drug treatment diversion programs for nonviolent offenders, (2) modify parole supervision procedures and expand prison and parole rehabilitation programs, (3) allow for additional credits for participation and performance in rehabilitation programs that could reduce the time certain offenders stay in state prison, (4) change the penalties for marijuana possession, and (5) make various other miscellaneous changes to state law related primarily to the organization of rehabilitation programs at the California Department of Corrections and Rehabilitation. The provisions are summarized below:

- **Expands Drug Treatment Diversion Programs.** Establishes three diversion tracks to replace the existing Proposition 36 and Drug Court programs. These tracks would (1) expand overall the types of offenders who are eligible for diversion; (2) further limit the circumstances under which sanctions, such as incarceration, could be imposed on offenders who violate drug treatment diversion program rules or commit new drug-related offenses; (3) establish new court procedures for diversion programs; (4) require the collection and publication of data, research, and reports as to the effect of these provisions; and (5) expands funding to support additional treatment services. The initiative appropriates $150 million in 2008-09 to the Substance Abuse Treatment Trust Fund (SATTF) for expanded treatment services, which would grow to $460 million in 2009-10. These monies would grow annually based on inflation and population adjustments.

  This initiative also establishes new county-run juvenile treatment programs for nonviolent youth under the age of 18 funded from a portion of the funds deposited in the SATTF. The initiative also creates a 23-member state Treatment Diversion Oversight and Accountability Commission to set program rules regarding the distribution of the funds in the SATTF and the collection of data for required evaluations of programs and program funding needs. This measure prohibits the state and counties from supplanting funds now used to support substance abuse treatment programs and also requires that other private and public funding sources be used before SATTF funds are expended for drug treatment programs.

- **Changes State Parole and Rehabilitation Programs.** Reduces parole terms for some offenders and allows for longer parole terms for other offenders. Establishes three categories of parole violations—technical, misdemeanors, and felonies. Generally prohibits certain non-violent parolees from being returned to state prison for technical or misdemeanor parole violations. These parole violators would be diverted to Proposition 36 or other alternative sanctions. Requires that all CDCR inmates, except those with life terms, be provided rehabilitation programs beginning at least 90 days before their scheduled release from prison. Also permits offenders to request up to a year's worth of rehabilitation or treatment services within a year after they are discharged from parole.

Also creates a new 21-member Parole Reform Oversight and Accountability Board to review, direct, and approve the rehabilitation programs and set parole policies. Establishes that the state is responsible for funding parolee treatment services and directs CDCR to establish five pilot projects similar to drug courts to divert certain parole violators to treatment and rehabilitation programs. Shortens the parole revocation process and requires various reports and studies on the effectiveness of rehabilitation programs for offenders.

- **Expands Credits for Performance in Rehabilitation Programs.** Permits the parole reform board created by this initiative to authorize the award of additional credits based upon such factors as showing progress and completing rehabilitation programs. This initiative prohibits these credits from being awarded to inmates convicted of violent or serious felonies or certain sex crimes.

- **Changes Marijuana Possession Penalties.** Changes possession of less than 28.5 grams of marijuana by either an adult or a minor to an infraction rather than a misdemeanor. Adults would continue to be subject to a fine and first-time juvenile offenders would be required to complete a drug education program. Fines collected from adults would be used to support new youth programs created by the initiative.

- **Other Provisions.** Reorganizes administration of CDCR's rehabilitation and parole programs and creates a chief deputy warden for rehabilitation at each prison. Expands the Board of Parole Hearings from 17 to 29 commissioners. Requires county jails to provide materials and strategies on drug overdose awareness and prevention to all inmates prior to release. Specifies that adults in drug treatment, except for parolees, would receive mental health services using funding from Proposition 63.

A more detailed summary is included in the LAO's review and fiscal analysis that is attached to this report in Attachment A.

LAO Fiscal Impact. The LAO's fiscal analysis of this initiative identifies fiscal impacts in six areas. These areas are summarized below:

- **Increases State Costs to Expand Drug Treatment and Rehabilitation Programs.** The LAO estimates that this measure would result in an increase in state costs exceeding $1 billion annually for expanded drug treatment and other rehabilitation programs offered to eligible offenders. This includes $150 million to be directed to the SATTF in the budget year, which grows to $460 million in 2009-10. The 2009-10 funding level is over $300 million more than what was included in the 2007-08 Budget Act for this purpose. Appropriations to the SATTF would be adjusted annually for inflation and every fifth year for changes in the state's population.

The LAO also estimates that the initiative would increase state costs by *several hundreds of millions of dollars annually* to fund expanded rehabilitation programs for offenders in state prisons and on parole. The LAO has also identified several other state costs that would potentially collectively amount to *tens of millions of dollars annually*.

- **Decreases State Operating Costs for Prisons and Parole Systems.** The LAO estimates that this measure could result in decreasing state operating costs by more than $1 billion annually due mainly to increased diversion and treatment that will reduce the prison and parole populations.

- **Reduces State Capital Outlay Costs.** The LAO estimates that this initiative could eventually result in one-time net state savings on capital outlay costs for new prison facilities that could exceed $2.5 billion. The net savings takes into account likely savings from constructing fewer prison beds because of a reduced inmate population and the increased need for prison program space due to the measure's requirement for expanding in-prison rehabilitation programs.

- **Impacts on County Operations Uncertain.** The LAO finds that there could be some impact to county costs, including a provision that allows the state to impose a requirement for matching funds to receive SATTF funds, as well as a provision requiring the use of Proposition 63 funds for mentally ill offenders placed in drug treatment diversion programs.

- **Impacts on County Capital Outlay Costs Unknown.** The LAO finds that there may be some impact on county capital outlay costs from this measure, but the net effects are unknown.

- **Other Fiscal Impacts.** The LAO estimates that there could be various other impacts to other government agencies. However the magnitude of these impacts is unknown.

A more detailed summary of the LAO's fiscal analysis is included in the LAO's review and fiscal analysis that is attached to this report.

Potential Impacts on Budget Discussions. The passage of the NORA Initiative could significantly reduce the number of non-violent offenders sent to state prison, which could generate significant savings over time. However, if passed, the initiative would require the state to allocate an additional $150 million in the budget year and $300 million in 2009-10.

At the March 12 meeting of the Subcommittee, various proposals to reduce the state's prison population were discussed including the Governor's proposal for early release of certain non-violent offenders and the LAO's proposal to realign certain low-level offenders from parole to probation. Staff finds that this initiative could, over time, significantly reduce the size of the prison population eligible for early release or realignment to the county under these proposals.

At the April 28 meeting of this Subcommittee, testimony was heard on the department's plans to provide additional rehabilitation services to inmates. This initiative would significantly increase the rehabilitation programming required in prison and would likely impact the types of facilities that would need to be built to accommodate this treatment.

5225 California Department of Corrections and Rehabilitation

Population Estimate

Adult Inmate and Parolee Population Estimates. The Governor's budget is based on projections that the average daily inmate population and adult parolee population in the current year is higher than anticipated in the 2007 Budget Act. The 2008-09 average daily adult inmate population is anticipated to be 177,021 and the average daily adult parolee population is anticipated to be 133,061, which is 1.7 percent and 2.9 percent higher than the estimate in the current year, respectively. The estimated inmate population for the current year is 173,993.

The actual inmate population is on track to be significantly less than what is projected for the budget year. As of the end of April, CDCR has 170,467 inmates, which is fewer than what they had at the start of the current fiscal year. The actual parolee population is also on track to be slightly lower than the projection in the current year. These numbers, as in the past, will be adjusted in the May Revision for both the current year and the budget year.

Population Estimate – Fiscal Impact. The Governor's budget includes $14 million General Fund to address the growth and changes in population (also referred to as the adult workload budget) in the current year. The Governor proposes $77 million General Fund to fund growth and changes in the adult inmate and parolee population for 2008-09.

The population estimate also includes $3.7 million in the current year and $34 million in the budget year for various changes categorized by the Administration as adult policy adjustments. These adjustments include additional funding to support community correctional and treatment facilities for female offenders and start-up costs for two re-entry facilities in San Joaquin and San Francisco Counties, respectively.

Total funding for the adult workload budget and the adult policy adjustments is $18 million and $111 million in the current year and budget year, respectively. These adjustments are detailed in Attachment B of this report.

Impact of Budget Proposals on Population Estimate. These population estimates do not reflect the Governor's two policy proposals—20-month early release and summary parole. While the budget does include estimates of the direct fiscal impacts of these policies on the cost of prison and parole operations, the reduction in the inmate population is not reflected in the department's bed plan. This means that it is unclear whether contracted beds are, in fact, necessary given the number and security level of offenders that will remain in the prison system.

These population estimates also do not reflect the Governor's proposals to reduce funding for Proposition 36 and drug court allocations to counties (these expenditures are under the jurisdiction of Subcommittee #3). Because Proposition 36 and drug court programs allow offenders to receive drug treatment in lieu of their incarceration in prison, the proposed reduction in spending for these programs would likely increase the prison population in the budget year.

LAO Finds Population Estimate High. The LAO recommends a $55 million reduction in both the current year and budget year requests to fund CDCR's population estimate because the LAO finds that recent data indicate that the population is trending lower than the department's projections. The LAO indicates that it will continue to monitor the caseload and recommend further changes if necessary following the review of the May Revision.

LAO Finds Population Estimate Process Needs More Work. Last year the Legislature directed the department to work on reforming its population estimate process to make it more transparent, thereby improving legislative oversight. The LAO finds that the department has taken initial steps to comply with legislative direction. However, the LAO also finds that additional work needs to be done and has put forward several recommendations to improve the transparency of the process and provide for a more accurate budget request and efficient budgeting process. Specifically, the LAO recommends that the Legislature adopt budget bill language directing the department to continue its current efforts to improve the transparency of the population budget request. The language would also require the department to significantly change its population budget methodology by developing new funding formulas for changes in the inmate population to replace the current reliance on the Institution Activation Schedule and staffing packages.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold open the population estimate pending May Revision adjustments.
- Adopt the LAO budget bill language to ensure continued progress in improving the population estimate process.

1. Out-of-State Beds

Background. Chapter 7, Statutes of 2007 (AB 900, Solorio) authorizes CDCR to house up to 8,000 inmates in out-of-state contract facilities for up to four years. The authority will expire in July 2011. Inmates with serious medical or mental health problems would be excluded from transfer.

Update on Out-of-State Transfers. As of the end of April 2008, the department has transferred 3,581 inmates to out-of-state facilities. The out-of-state population is currently located at the following privately-owned facilities:

- West Tennessee – 77 inmates.
- Florence, Arizona – 857 inmates.
- Tallachatchie, Mississippi – 1,681 inmates.
- North Folk, Oklahoma – 611 inmates.
- Red Rock, Arizona – 355 inmates.

The department started making involuntary transfers in June 2008 and 3,124 of the transfers to date have been involuntary. The department had been targeting inmates with Immigration and Customs Enforcement (ICE) holds for transfer to out-of-state facilities. The department is also focusing on inmates that have had no visits in the last 12 months and who are currently unassigned to programs or work. The department estimated that it would start transferring non-ICE hold inmates who had no visits in the last 12 months beginning in January 2008.

Governor's Budget. The population estimate includes $81 million to support the out-of-state beds in the current year based on estimates that the average daily population housed in out-of-state facilities in the current year will be 2,672. The department requests an additional $50 million in the budget year that is offset by $41 million in reduced institution costs to support the activation of an additional 3,000 beds in Eloy, Arizona. A new private prison facility is being constructed in Eloy, Arizona and CDCR has secured a contract for these beds at a daily rate of $72.

Staff Comments. Staff finds that the out-of-state beds are marginally more expensive than activating additional beds within CDCR institutions, especially given the additional CDCR staff required to travel and monitor these contracts and ensure that the contractors comply with CDCR rules and regulations. However, given the current state of overcrowding in state facilities, this program has allowed for some overcrowding relief in state prison facilities. The department indicates that it has deactivated over 4,000 bad beds as of the end of April 2008. This has allowed some gyms to be converted from triple bunk to double bunk and some bunks have been removed from gyms and dayrooms all together.

As was discussed at the March 12 meeting of the Subcommittee, the Administration's budget has not been reconciled with the Governor's early release and summary parole proposals. Staff finds that if the Governor's early release and summary parole proposals were enacted the department would not need the out-of-state contracts, especially the new contract proposed in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending the May Revision.

2. Female Bed Plan

Background. Chapter 706, Statutes of 2007 (AB 76, Lieber) directed CDCR to develop a Female Offender Reform Master Plan and develop policies and procedures that are gender responsive. Funding to start these efforts was included in the funding provided for the Reducing Recidivism strategies first allocated in the 2006 Budget Act and continued in the 2007 Budget Act. The department has completed the plan, but it has not been submitted to the Legislature to date.

National research finds that developing gender responsive treatments yields reduced recidivism because the histories and identified needs of incarcerated women tend to be significantly different than men. Gender responsive treatments tend to be more focused on trauma treatment and strengthening systems of family support and family involvement. In order to implement this model, the department is developing a multi-pronged approach that includes developing small community-based facilities to house female offenders.

Funding was provided in the current year to start this effort. The department has received applications for 67 community centers that it is currently reviewing. The department has also successfully contracted for an additional 75-bed community-based facility in Bakersfield. These female rehabilitative community correctional centers are one prong in the department's efforts to improve outcomes for female offenders.

Funding was also provided in the current year as part of the Reducing Recidivism strategies for the activation of female residential multi-service centers to provide continuity of services to female offenders on parole. The department indicates that it has activated its first facility in Sacramento.

Governor's Budget. The Governor's budget proposal includes $2.9 million in the current year and $30.4 million in the budget year to implement various components of the department's female offender master plan, which includes investments in the following facilities to improve the continuum of care offered to female offenders to reduce recidivism and break the intergenerational cycle of incarceration:

- **Female Rehabilitative Community Correctional Centers.** $2.9 million in the current year and $20.6 million in the budget year to support staff and contracts for an additional 1,275 beds in these community correctional centers. The department indicates that it is pursuing community based beds in increments of 200, 100 and 75 beds. Each facility would include a case manager to ensure that each female offender's treatment needs were identified in an Individual Treatment and Rehabilitation Plan and met.
- **Female Offender Treatment and Employment Program.** $3.3 million in the budget year to add an additional 150 of these beds in the community for female parolees. These beds would be added to the Division of Addiction Recovery Services' existing network of providers. This program has been evaluated by UCLA and has been found to reduce recidivism.
- **Female Residential Multi-Service Centers.** $1 million to continue implementation of 575 residential multi-service center beds for female parolees. The 2007 Budget Act included $7 million to support the activation of these beds in the current year. The department is in the process of contracting for these services. The goal of these centers is to provide female parolees with supportive housing to enable reduced recidivism. The department has activated its first 25-bed facility in Sacramento.
- **Sober Living Environment Beds.** $5.5 million to activate 750 Sober Living Environment beds that are step-down facilities for female offenders that have completed residential drug treatment. These facilities will be small and will enable female offenders to live with their children.

Staff Comments. Staff finds that the department's plans to improve services to female offenders are designed to provide the continuum of care that will improve outcomes for female offenders. Staff finds that the majority of female offenders in state prison are mothers and improving outcomes for this cohort of the prison population can have significant impacts on reducing the intergenerational cycle of crime and incarceration. Staff finds that these community-based beds are more expensive than regular prison beds, but are better designed to improve the outcomes for female offenders. Staff finds that the planned implementation of some of the facilities has been delayed and some savings is likely in the current year.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending the May Revision.

3. Re-Entry Facilities

Background. Chapter 7, Statutes of 2007 (AB 900, Solorio) included $2.6 billion to construct 16,000 re-entry beds. These facilities would be no more than 500 beds and would be located in communities where offenders would parole. The department plans to design an environment in the re-entry facility that provides intensive rehabilitative programming in the last year of incarceration and provides a step-down environment.

Chapter 228, Statutes of 2007 (SB 943, Machado) was enacted in 2007 to site the state's first re-entry facility at the closed Northern California Women's Facility in San Joaquin County. The Corrections Standards Authority (CSA) has received proposals for 19 additional re-entry facilities as part of the request for proposal to allocate jail bond money also included in AB 900. Language included in AB 900 and Chapter 175, Statutes of 2007 (SB 81, Budget) requires that CSA give preference in awarding the jail money to counties that site re-entry facilities.

Governor's Budget. The Governor's budget provides partial funding to support two re-entry facilities in the budget year. Specifically the budget includes:

- **Northern California Re-entry Facility.** $727,000 in the current year and $1.1 million in the budget year to support the pre-activation team responsible for preparing to activate the first state-run re-entry facility in the state. Pre-activation includes developing the programs for the facility and starting the process for hiring staff at the facility. The department plans to open this facility by December 2008. Additional funding for the staffing needed to open the facility is expected in the May Revision.
- **San Francisco Re-entry Project.** $2.5 million in the budget year to contract with San Francisco County to run a 48-bed re-entry facility in their County Jail. This project will include programming for the offender in jail and when on parole.

Staff Comments. Staff finds that the department has developed some prototypes for the re-entry facilities and has started to design the programming for these facilities, but the department recognizes that more needs to be done. Furthermore, staff finds that there will be considerable local opposition in siting these facilities and the department will need to continue to work closely with local governments to ensure their support in this process. Staff finds that the state grants for local jail construction are critical to ensuring that re-entry facilities are sited near communities where the offenders will parole.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending the May Revision.

Board of Parole Hearings

1. Lifer Hearing Process

Background. The department entered into a Stipulated Agreement and accompanying remedial plan in March 2006 to settle the *Rutherford v. Schwarzenegger* lawsuit. This class action lawsuit was filed on behalf of lifer prisoners that had reached their minimum eligible parole dates without receiving a parole suitability hearing within the timeframes required by law. The remedial plan requires the department to develop and implement a statewide scheduling and tracking system for life prisoner parole hearings. The court specifically included an information technology project component in the remedial plan. This case is now referred to as *Lugo v. Schwarzenegger* since the inmate named Rutherford has passed away.

In December 2007, the *Lugo* court ordered the Board of Parole Hearings (BPD) to develop a plan by February 1, 2008 that would clear up the backlog of hearings by June 1, 2009. The department is currently working on a plan for eliminating the backlog with the plaintiffs in the case and the court.

The Legislature has provided $8.3 million in on-going funding to support changes at the BPH to comply with the *Lugo* lawsuit.

Governor's Budget. The Governor's budget proposal includes $8.2 million General Fund to support 72.8 positions to ensure more efficient and timely parole suitability hearings for inmates sentenced to life terms. The department is requesting resources in the following three areas:

- **Hearings Division.** $628,000 is requested to add three commissioner positions to reduce the number of postponements due to panel unavailability. The budget includes trailer bill language to implement this effort.
- **Forensic Assessment Division.** $6.2 million ($3.8 million limited-term) for clinical staff to enable more timely psychological evaluations prior to parole suitability hearings. The limited-term funding will be used to contract for clinical staff to address the current backlog of assessments that need conducted. The backlog was estimated to be over 600 as of July 2007.
- **Case Records Unit.** $1.4 million for additional case records staff to support the field records offices that have the largest volume of life inmates.

Postponements Still a Problem with Lifer Hearings. The board continues to have problems with the postponement of lifer hearings. The board indicates that over one-third of the hearings continue to be postponed by the board because of (1) panel unavailability, (2) backlog in getting updated psychological evaluations, and (3) errors or delays caused by case records. The board estimates that it currently has a backlog of 1,200 to 1,300 hearings. The board indicates that it is working on many fronts to try and reduce the number of postponements and backlog. Staff finds that this budget proposal will help to alleviate the backlog, but may not solve the problem as the department continues to work on redefining its business processes and adjusting its resource needs based on projected workload.

Another factor exacerbating the board's ability to get rid of the backlog is the continued debate over the tool or tools it should use in conducting the psychological examination. There has been considerable debate over the last few years and the board indicates that it has still not determined what examination it will use. Until this is decided there will continue be problems with postponements related to the psychological evaluation and general confusion that has arisen about when a psychological evaluation is too old and what type of psychological examination should be conducted.

Staff also finds that the significant turnover in case records staff is resulting in the distribution of incomplete files to commissioners and the scheduling of hearings that cannot go forward because of missing information or other factors. The current scheduling process needs to be addressed to improve the efficiency of the system in order to avoid wasting staff resources and commissioner time on hearings that cannot take place as scheduled.

Attorney Compensation Low for Lifer Hearings. Board appointed attorneys designated as lifer attorneys are compensated at $30 per hour with a cap of 8 hours per case. This rate includes travel, lodging, and expenses and the time cap includes the time it takes for the attorney to travel to the institution. Staff finds that this rate is extremely low when compared with other comparable attorney work. For example, the attorney rate for parole revocation hearings is set at $180 per hour. The compensation rates do not allow for a very high quality of representation for inmates in these hearings. Often the attorney does not have time to meet with the inmate before their hearing and rarely do they follow up on issues after the hearings.

Commissioners. Staff finds that the juvenile parole board currently has five commissioners. However, given the realignment of juvenile offenders from the state to the county that was enacted last year the number of youth in state facilities is expected to design significantly over the next three years. Staff finds that the juvenile parole board may no longer need all five commissioners and a few of these commissioners could be used to address the needs at the adult board.

Staff Comments. Staff finds many problems with the underlying professionalism and fairness of the current board process for lifer hearings. These hearings are supposed to be conducted pursuant to rules and regulations; however, often these rules are ignored and broken. Staff finds that the current system is broken and even if the backlog is diminished it will not make the system fair. Commissioners and deputy commissioners must be held accountable for following the rules and regulations of the process. Training is also critical to ensure that commissioners and deputy commissioners fully understand the rules and regulations they must follow in making decisions and conducting hearings.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve this budget proposal, but redirect two commissioner positions and funding from the juvenile parole board to fund two of the three new commissioners established at BPH.
- Approve amended trailer bill language to implement the shift of two commissioners.
- Adopt supplemental report language to require the Board to prepare a report by January 10, 2009 to the Legislature on how it plans to improve its training program for board members and deputies.

Information Technology

1. Discharged Offender Records Management System

Background. The Department of Corrections and Rehabilitation currently operates primarily on a paper-based system. All inmate records are stored only in a hard-copy format. Therefore, when a parolee is returned to prison there is a physical retrieval process that has to occur to retrieve the inmate's files out of storage. This can cause some delays in the processing of an inmate in reception and causes a bottle neck of staff time when inmates are returned only for short sentences.

The 2006-07 Budget Act contained $4.3 million to implement a new electronic Discharged Offender Record Management System (DORMS). The system entailed scanning the hard-copy inmate file into an electronic format when an offender was discharged from parole. This would then make it easier to retrieve the file if the offender was returned to custody. Of this funding, approximately $2.8 million was one-time and $1.5 million was ongoing to support a contract to scan and store the inmate files in DORMS.

The DORMS system is an interim measure while the department continues to pursue its Strategic Offender Management System (SOMS). The SOMS system will ultimately automate inmate files. However, this conversion is not scheduled to occur for several years and in the meantime the DORMS system is being put in place to save staff time and storage space.

Governor's Budget and Finance Letter. The Governor's budget proposal includes $3.2 million General Fund to cover increased costs related to the storage, scanning, and software maintenance for DORMS. A Finance Letter (dated April 1, 2008) requests that this proposal be reduced by $1.2 million to reflect that the Unit Health Records would no longer be a part of this project and would be handled by the Receiver. The Unit Health Records represented over 40 percent of the documents that were to be scanned as part of this project.

The Finance Letter is also proposing a technical adjustment to increase funding in the budget year by $548,000 to support scanning and storage costs associated with the DORMS project. The majority of this funding was part of a request in 2006-07 and the full year costs were inadvertently left out of the 2007-08 budget.

Staff Comments. Staff finds that retrieving physical records on an inmate that has been returned to custody is time consuming and can result in significant delays. These delays are costly because absent this information the department cannot make an educated decision about classification and housing, which results in the institutions using the most restrictive and costly administrative segregation housing. Staff finds that the DORMS project is an interim solution until the department's large integrated inmate information system is implemented in phases over the next six years.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal and the Finance Letter changes related to the DORMS project.

2. Business Information Systems Project

Background. In 2004 a feasibility study report (FSR) was approved to procure, develop, implement, and maintain an information technology solution to improve its business practices. This project is the Business Information Systems Project (BIS). The total costs of the project are expected to be $144 million, which is $8 million less than 2006 estimates of the project. This reduction is due to decreased software costs and contracting services. The project costs have also been reduced by amending the financing strategy to limit the services that are financed.

Finance Letter. A Finance Letter (dated April 1, 2008) requests reappropriation of $2.5 million appropriated in 2006-07 for the BIS project. The reappropriation is needed to align the funding with the new project implementation schedule, which has experienced delays related to finalizing the contract with IBM to implement this project.

The Finance Letter also proposes a technical adjustment to increase funding in the budget year by $1.8 million to fund one-time information technology equipment purchases. This funding was part of a request in 2006-07 and the full year costs were inadvertently left out of the 2007-08 budget.

To date, approximately $42.4 million has been appropriated for this project. The Governor's budget contains $23.5 million, including the $2.5 million in funds proposed for reappropriation.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposals.

Other Issues

1. Office of Legal Affairs—*Keyhea* Hearings

Background. The CDCR is required by statute and the U.S. Constitution to ensure due process in its administration of medical and mental health care to inmates. A permanent injunction required in a California court requires the department to seek a court order authorizing the administration of long-term involuntary psychotropic medications if the inmate is (1) a danger to self; (2) a danger to others; or (3) gravely disabled. These hearings are conducted by administrative law judges through the Office of Administrative Hearings. However, because they are legally superior court proceedings, CDCR must be legally represented by a licensed attorney.

Governor's Budget. The Governor's budget proposal includes $636,000 General Fund to support 5 new positions (4 attorney positions) to address the growing number of *Keyhea* hearings.

Staff Comments. The number of *Keyhea* cases has nearly tripled over the past ten years and legal staffing has not been adjusted to keep up with this growth in the number of cases. The department has been ordered by the federal courts to improve mental health care for inmates in the *Coleman* lawsuit. This lawsuit has increased the number of mental health clinicians and increased the department's ability to identify the mental health needs of the population. The increase is also due to the department's efforts to train clinicians and custody staff to recognize when a *Keyhea* hearing is required under state law.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

2. Human Resources Support

Background. Last year this Subcommittee discussed at length the problems the department has had with recruiting and retaining sufficient numbers of qualified staff. The department was directed to address this issue by several provisions included in Chapter 7, Statutes of 2007 (AB 900, Solorio). The legislation required the department to do the following:

- **Rehabilitative Staff Pipeline Development.** Requires development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.
- **Management Deficiencies.** Requires CDCR to develop and implement a plan to address management deficiencies within the department.

In addition, AB 900 also included benchmarks related to staffing issues that the department had to achieve in order to move to Phase II of the funding provided in the Legislation. The benchmarks related to staffing include the following:

- **Management Deficiencies.** The CDCR must implement a management deficiency plan and have at least 75 percent of management positions filled for at least six months.
- **Vacancy Rate.** The CDCR must develop and implement a plan to obtain additional rehabilitation services and reduce its vacancy rate for positions dedicated to rehabilitation and treatment services in prisons and parole offices to no greater than the statewide average vacancy rate for all state positions.

The department indicates it has made some progress towards these benchmarks and released a plan to the Legislature in January 2008. Furthermore, the department has demonstrated that it has made significant progress in hiring correctional officers. In a November 2007 report to the Legislature, CDCR reported that it was on track to graduate about 1,575 correctional officers from its academies between July 2007 and December 2007. The department estimated that attrition during these months would total just over 600 so the net expected increase in correctional officer staffing was about 1,000 for this period. The department estimated in November that it would bring its vacant correctional officer positions to about 1,800 by the end of 2007. The department expected to further reduce this number in 2008.

Governor's Budget. The Governor's budget proposal includes $4.7 million to support 10 new positions and the conversion of 34 limited-term positions to permanent. The department is also requesting funding to continue 15 limited-term positions to support dental and mental health hiring in the budget year. These positions would support the following:

- **Office of Executive Recruitment and Program Performance Management.** 4 new positions to support the recruitment and hiring of executive level management.
- **Office of Personnel Services, Customer Service Staff.** 6 new positions to provide managers and supervisors with technical expertise concerning the hiring process, classification and pay, merit issues, training, progressive discipline and general personnel management issues. This office is also responsible for developing consistent policies and procedures and work on numerous changes to classification and pay that are needed to better recruit and retain qualified individuals.
- **Office of Workforce Planning.** Convert 3 limited-term positions to permanent to continue support for recruitment efforts to attract trained staff for 500 plus classifications (excluding entry level peace officers).
- **Office of Selection Services.** Convert 4 limited-term positions to permanent to continue support for the administration of examinations required to hire qualified staff in a timely manner.
- **Institution Personnel Office Statewide.** Convert 27 limited-term positions to permanent to continue to support hiring and selection at the institutions.
- **Dental and Mental Health Hiring Plan.** Continue 15 limited-term positions to support a variety of hiring activities at the institutions and headquarters related to hiring large numbers of dental and mental health staff required by federal court actions. The department proposed to make these positions permanent starting in 2009-10.

Staff Comments. Staff finds that the majority of these staffing resources are needed to address some of the human resource problems that were identified last year. Staff finds that the department continues to have a difficult time recruiting some professional staff because of the remote location of some of their facilities. This problem is especially acute with some mental health professionals where there is already a shortage of qualified applicants. Staff understands that the department has made significant progress in hiring dental professionals.

Staff Recommendation. Staff recommends that the Subcommittee approve this request, but given the progress made in hiring dental staff rejects the department's proposal to make the 15 limited-term positions permanent in 2009-10.

3. Correctional Case Records

Background. In 2005-06 there were three published decisions by the courts (referred to as *Reeves, Tate,* and *Phelon*) and one unpublished decision (referenced as C/D2) that changed the method of calculating release dates for specific offenders. Each of these decisions clarified how the department should handle calculating release dates in specific situations. Specifically, these decisions now require the department to track separate release dates for violent and non-violent terms, applying different rates of credit when one term stops and the other starts.

The department's existing offender tracking system is no longer able to accurately calculate the release date of an offender given the numerous law changes and rule changes implemented by the state and ordered by the court. This has resulted in a significant increase in manual work by the case record staff to manually calculate release dates. Eventually, the SOMS system will be able to handle this task, but it is not planned to be implemented until 2010.

Recent press and a lawsuit have raised awareness of CDCR's current inability to ensure that inmate release dates are calculated correctly. The lawsuit alleges that up to 33,000 inmates release dates have not been calculated correctly which in most cases has resulted in CDCR incarcerating individuals past their appropriate release date. The CDCR agrees that many of the release dates are not calculated correctly and has a sizeable backlog of cases that it needs to review to ensure compliance with the court decisions.

This problem has arisen mainly due to a shortage of trained case records staff at prisons around the state, which has resulted in a backlog of cases. The department has indicated that eliminating this backlog could reduce as many as 600 beds in the budget year.

Finance Letter. A Finance Letter (dated April 1, 2008) includes funding to support 77 case records positions at a cost of $5.2 million. The department proposes to fund these positions from institutional savings of $7.8 million as a result of correcting the prison release dates which in most cases results in reducing days served. This will result in a $2.5 million reduction to the Governor's budget proposal.

Staff Comments. Staff finds that the department's current practices have created a disparity in how it treats inmates. At present, a new release date is calculated to conform with the court decisions only for inmates that appeal. This kind of inconsistency opens the state up to further lawsuits. Furthermore, staff finds that since most of the recalculations result in fewer days in prison this proposal could help to reduce, marginally, some overcrowding. Ultimately, this process should be automated as the current process is subject to considerable risk of human error.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

4. Custody Enhancement at Private Prisons

Background. The department has contracts with several private prisons located in California to house CDCR inmates. These contracts are overseen by the department and the contractors are required to operate the facilities in accordance with CDCR rules and regulations. Custody at the private prisons is provided by the contractors, which are not sworn law enforcement staff. Historically there has been only a limited CDCR peace officer presence at these contracted facilities. Currently, each private prison facility has two CDCR peace officer staff and additional correctional counselors that are also CDCR peace officer staff.

Funding was provided for 4.6 limited-term positions to provide three private prisons that are not located close to a state prison with one CDCR peace officer during third watch.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes $529,000 to support converting the 4.6 limited-term positions to permanent positions for the following three private prisons: (1) Baker CCF, (2) Leo Chesney CCF, and (3) Mesa Verde CCF.

LAO Issues. Staff finds that in the past there have been significant riot events at private prisons in California. However, the LAO finds that these events have been very few and in most cases the facility has been able to call for appropriate backup to address the situation. Staff finds that the department has recently entered into contracts with several private prisons out-of-state and it is not staffing these facilities to provide CDCR peace officer coverage on third watch. Staff finds that given the infrequency of events and the budget situation this is not a high priority for funding.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

5. TB Testing and Hepatitis B Vaccination—Staff Safety

Background. State law requires that all CDCR employees get an annual TB test. New hires are also offered a Hepatitis B vaccination, which they can refuse if they choose. Historically, the department has used CDCR clinical staff to perform this testing and vaccination. In 2007 the Receiver decided that CDCR clinical staff would no longer perform this function.

Finance Letter. A Finance Letter (dated April 1, 2008) includes $3.5 million to support a contract to provide this testing and vaccination service to CDCR staff.

Staff Comments. Staff finds that there continues to be a higher prevalence of both TB and Hepatitis B in the state prison population than in the general population, which makes protecting the public health of inmates and employees important. Staff finds that annual TB tests are required of all CDCR employees regardless of whether you work inside the prisons or directly with the offender population. Staff finds that this requirement may need to be updated.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

Attachment A

Attachment B

Attachment A

Victims' Bill of Rights Act of 2008: Marsy's Law

Safe Neighborhoods Act: Protect Victims, Stop Gang, Gun and Street Crime

Nonviolent Offender Rehabilitation Act of 2008

February 4, 2008

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Victims' Bill of Rights Act of 2008: Marsy's Law," Amdt. #1-NS (A.G. File No. 07-0100). This measure amends the State Constitution and various statutes relating to (1) the legal rights of crime victims and restitution, (2) restrictions on the early release of inmates, and (3) the granting and revocation of parole. These provisions are discussed in more detail below.

Expansion of the Legal Rights of Crime Victims and Restitution

Background. In June 1982, California voters approved Proposition 8, known as the "Victims' Bill of Rights." This initiative amended the Constitution and various statutes to, among other changes, grant crime victims the right to be notified in advance, attend, and state their views at sentencing and parole hearings. Other separately enacted statutes have created other rights for crime victims, including the opportunity for judicial orders to protect a victim from harassment by a criminal defendant.

Proposition 8 established the right of crime victims to obtain restitution from any person who committed the crime that caused them to suffer a loss. Restitution involves, for example, replacement of stolen or damaged property, or reimbursement of costs that the victim incurred as a result of the crime. A court is required under current state law to order full restitution unless it finds compelling and extraordinary reasons not to do so. Under certain court procedures, a restitution order can be enforced by a victim in the same manner as a civil judgment. Proposition 8 also established a right to "safe, secure and peaceful" schools for students and staff of primary, elementary, junior high, and senior high schools.

Provisions Relating to Restitution. This measure requires that restitution be ordered from offenders who have been convicted, in every case in which a victim suffers a loss, without exception. The measure also requires that any funds collected by a court or law enforcement agencies, from a person ordered to pay restitution would go to pay that restitution first, in effect prioritizing those payments over other fines and obligations an offender may legally owe.

Notification and Participation of Victims in Criminal Justice Proceedings. As noted above, Proposition 8 established a legal right for crime victims to be notified of, attend, and state their views in sentencing and parole hearings. This measure would expand these legal rights to include various types of criminal proceedings, including the release from custody of an offender after their arrest. Also, law enforcement and criminal prosecution agencies would be required to provide victims with a "Marsy's Rights" card detailing the victim's rights and resources or a "Victims Survival and Resource Guide" containing similar information.

Other Expansions of Victims' Legal Rights. This measure expands the legal rights of crime victims in various other ways, including the following:

- Crime victims and their families would now have a state constitutional right to prevent the release of certain confidential information or records to criminal defendants, to protection from harm from individuals accused of committing crimes against them, to the return of property no longer needed as evidence in criminal proceedings, and to finality in criminal proceedings in which they are involved. Some of the constitutional legal rights for victims added by this measure now exist in statute.
- The Constitution would be changed to specify that the safety of a crime victim must be taken into consideration by judges in setting bail for offenders arrested for crimes.
- The measure would state that the right to safe schools includes community colleges, colleges, and universities.

Restrictions on Early Release of Inmates

This measure would amend the Constitution to specify that criminal sentences imposed by the courts shall be carried out in compliance with the courts' sentencing orders and shall not be substantially diminished by early release policies to alleviate overcrowding in prison or jail facilities. The measure directs that sufficient funding be provided to house inmates for the full terms of their sentences, except for statutorily authorized credits which reduce those sentences.

Changes Affecting the Granting and Revocation of Parole

Background. Before the California Department of Corrections and Rehabilitation releases an individual sentenced to life in prison with the possibility of parole the inmate must go before the Board of Parole Hearings. The board also has authority to return to state prison for up to a year individuals who have been released on parole but who commit parole violations. In keeping with a federal court settlement, the state provides legal counsel to parolees facing revocation charges.

Modified Procedures for Consideration of Parole. This initiative changes the procedures to be followed by the board when it considers the release of inmates with a life sentence from prison. Specifically:

- Inmates who were denied parole would generally have a longer time to wait, in some cases up to 15 years, before they would again have a parole consideration hearing.
- Crime victims would receive earlier notification in advance when inmates come before the board for parole consideration.
- In addition to having expanded opportunities to testify at such hearings, victims would also be able to bring additional family members and other representatives to testify at parole board hearings.

Parole Revocation Procedures. This measure also makes changes to the board's parole revocation procedures for offenders paroled from prison after the enactment of this initiative. It places into state law longer deadlines for probable cause hearings and hearings on the revocation charges than are now required for parole revocation cases under a court settlement. The measure also specifies that legal counsel will be provided to parolees facing revocation charges on a case-by-case basis if the parolee is deemed indigent, their case is complex, or they are incapable of defending themselves because of a mental or educational incapacity. Under the current court settlement, all parolees must be afforded legal counsel.

Fiscal Effects

Potential Increase in State Prison and County Jail Costs. The proposed constitutional amendment in this measure that requires that criminal sentences imposed by the courts be carried out without being substantially reduced by early releases in order to address overcrowding could have a significant fiscal impact on both the state and counties. The effect of this provision would depend upon the circumstances related to early release and how this provision was interpreted by the courts.

The state does not now generally release inmates early from prison. Thus, under current law, the proposed constitutional amendment would probably have no fiscal effect on the state prison system.

This measure could have a significant fiscal effect in the future, however, in the event that the Legislature or the voters enacted such an early release program to address prison overcrowding problems. Under such circumstances, this provision of the initiative could result in significant additional state prison costs in the hundreds of millions of dollars annually than would otherwise be the case.

Early releases of jail inmates now occur in a number of counties, primarily in response to population limits imposed on county jail facilities as a result of past federal court litigation over overcrowded conditions. Given these actions by the federal courts, it is not clear how, and to what extent, the enactment of such a state constitutional measure would affect jail operations and related expenditures in these counties. In other counties not subject to federal court-ordered population caps, the restrictions in this measure on early release of inmates could affect jail operations and related costs, depending upon the circumstances related to early release and how this provision was interpreted by the courts.

In general, where this provision of the Constitution was invoked, counties would probably respond by either (1) increasing the pretrial release of offenders, thereby making more room for sentenced offenders to serve their full terms in jail, or (2) expanding jail operations within new or existing facilities. Such expansions of jail operations could eventually increase county costs by the low hundreds of millions of dollars on a statewide basis.

State Savings From Parole Board Changes. The provisions of this measure that reduce the number of parole hearings received by inmates serving life terms would likely result in state savings amounting to millions of dollars annually. Additional tens of millions of dollars annually in savings could result from the provisions changing parole revocation procedures, such as by limiting when counsel was provided by the state. However, some of these changes related to parole revocations are likely to be subject to legal challenges. In addition, both of these sets of provisions could also ultimately increase state costs to the extent that they result in additional offenders being held in state prison.

Other State and Local Government Fiscal Impacts. The changes to the restitution process contained in this measure could potentially have other impacts on a host of local and state programs. Currently, a number of different state and local agencies receive funding from the fines and penalties collected from criminal offenders. For example, counties' general funds, the Fish and Game Preservation Fund, the Traumatic Brain Injury Fund, and the Restitution Fund for crime victims receive revenues collected from offenders. Because this initiative mandates that all monies collected from the defendant first be applied to pay restitution orders directly to the victim, it is possible that their payments of fine and penalty revenues to various funds, including the Restitution Fund, could decline. This impact may be offset to the extent that certain provisions of this initiative, such as the requirement for additional financial disclosure of their assets, improve the overall collection of monies owed by criminal offenders.

Finally, this initiative may also generate some savings for state and local agencies to the extent that the provisions of this measure (1) increases the restitution collected by crime victims and (2) the victims collecting restitution therefore need less help from state and local government programs, such as social services and victim assistance programs.

The net fiscal impact of these factors on the state and local agencies is unknown.

Summary

This measure would have the following major fiscal effects:

- Unknown potential increases in state prison and county jail operating costs due to provisions restricting early release of inmates. To the extent that any such costs were incurred, they could collectively amount to hundreds of millions of dollars annually.
- A potential net savings in the low tens of millions of dollars for the administration of parole reviews and revocations if the changes related to parole revocation procedures were not overturned by potential legal challenges.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance

January 29, 2008

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Safe Neighborhoods Act: Protect Victims, Stop Gang, Gun, and Street Crime" (A.G. File No. 07-0094, Amdt. #1-S).

Current Law

Types of Crime. There are three kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. About 18 percent of persons convicted of a felony are sent to state prison. Other felons are supervised on probation in the community, sentenced to county jail, pay a fine, or have some combination of these punishments.

Criminal Justice Programs and Funds. The state provides funding for various state and local criminal justice programs. This includes the following:

- ***State Penalty Fund.*** The state administers the State Penalty Fund which collects revenues from fees assessed to some criminal offenders. These funds are disbursed for various purposes, including restitution and peace officer training. Also, a portion is transferred to the state General Fund.
- ***Youthful Offender Block Grant.*** The state has established a block grant program which provides counties with funding to house, supervise, and provide various types of treatment services to juvenile offenders. The amount of funding provided for this program in the 2007-08 budget plan is $24 million which is projected to increase to $93 million by 2009-10 in accordance with a formula established in statute.
- ***Various Local Crime Prevention and Enforcement Grants.*** The state currently provides funding for various local criminal justice programs. For example,

the state provides $119 million to local law enforcement agencies through the Citizens' Option for Public Safety and an equal amount to local youth services agencies through the Juvenile Justice Crime Prevention Act.

Supervision of Parolees. Offenders who have been convicted of a felony and sent to state prison are supervised on parole by the state after their release. State policies determine the number of parole agents and other staff necessary to supervise these parolees.

Jessica's Law. Proposition 83 (commonly referred to as "Jessica's Law") was approved by voters in November 2006. Among other changes relating to sex offenders, the proposition requires that anyone who has been (1) convicted of a felony or an attempt to commit a felony that (2) requires him to register as a sex offender and (3) been sent to prison shall be monitored by a Global Positioning System (GPS) device while on parole and for the remainder of his life. The proposition did not specify, however, whether state or local governments would be responsible for paying for the GPS supervision costs after these offenders are discharged from state parole supervision.

Proposal

This measure makes several changes to current laws relating to criminal offenders. The most significant of these changes are described below.

New Criminal Justice Programs and Funding Levels. The proposal creates new state-funded criminal justice programs and requires that funding for certain existing programs be continued at current levels or increased in the future. In total, the measure requires the state to provide $965 million for specified criminal justice programs beginning in 2009-10. This amount reflects an increase in funding of $365 million compared to the amount provided in the *2007-08 Budget Act*. In particular, the measure increases state funding for police, sheriffs, district attorneys, jails, and probation offices primarily for law enforcement activities. The measure prohibits the state or local governments from using the new funding provided to replace funds now used for the same purposes. In addition, the measure requires that future funding for some of these new and existing programs be adjusted annually for inflation.

Specifically, the measure would allocate funding for such purposes as:

- Monetary awards to obtain information on crimes;
- The construction and operation of county jails;
- Juvenile facility repair and renovation and the operation of probation supervision and recreational programs for youth;

- Centers to assist investigations into child abuse and to assist victims recovering from crimes;
- Contracts to assist parolees in their reentry into communities;
- Task forces that would target offenders involved in gang activity, focus on narcotics interdiction at the state border, or to search high-risk probationers for guns;
- Providing information and other assistance to victims of crimes;
- Running criminal background checks on individuals receiving federal Section 8 housing assistance vouchers; and
- Electronic devices to track violent offenders or those involved in gangs and sex crimes.

Figure 1 summarizes the increase in funding required by this measure, generally beginning in 2009-10.

Figure 1

Annual General Fund State Funding for Criminal Justice Programs Affected by This Measure

(In Millions)

	Current Spending Level	Proposed Spending Level	Change
Local law enforcement[a]	$187	$419	$232
New state programs	—	68	68
Local juvenile programs	413[b]	479	66
Totals	**$600**	**$965**	**$365**

[a] Local law enforcement includes funding directed to police, sheriffs, district attorneys, adult probation, and jails.

[b] Includes $93 million for the youthful offender block grant as authorized by current law for 2009-10.

Detail may not total due to rounding.

In addition, this measure redistributes the State Penalty Fund in a way that increases support for training for peace officers, corrections staff, prosecutors, and public defenders, as well as various victims' services programs, while eliminating the existing transfer of money to the state General Fund and the Department of Education. The measure also requires that Youthful Offender Block Grant funds be distributed to county probation offices and prohibits them from being provided directly to county drug treatment, mental health, or other county departments.

This measure creates a new state office to distribute public service announcements about criminal justice statutes, such as the "Three Strikes and You're Out" law, and establishes a commission to evaluate publicly funded early intervention and rehabilitation programs designed to reduce crime.

Increased Criminal Penalties for Some Crimes. The measure increases criminal penalties for various crimes, including crimes related to gang participation and recruitment, intimidation of individuals involved in court proceedings, possession and sale of methamphetamines, vehicle theft, removing or disabling a GPS device, and firearms possession. For example, this measure requires that offenders convicted of car theft would be subject to an additional year in state prison if the theft was for the purpose of selling the stolen car. These and other proposed increases in penalties will likely result in *more offenders* being sentenced to state prison or jail for the crimes specified in the measure *for a longer period of time*. This measure also allows law enforcement authorities to impound vehicles for up to 60 days when a gun used in a crime is found in one.

Various Changes to State Parole Policies. The measure makes several changes to state parole policies. For example, the measure reduces the average parolee caseload of parole agents. The measure also requires the state to pay the cost of GPS monitoring of sex offenders after their discharge from parole supervision.

Other Changes. The measure makes several other changes to state laws affecting the criminal justice system, including the establishment of a statewide gang registry, changes to hearsay rules and gang injunction procedures, the use of temporary jails, and release of undocumented persons arrested for violent or gang-related crimes. Each of these provisions is described in more detail below.

- ***Gang Databases.*** The measure requires the development of two databases related to gang information for the use of law enforcement agencies. The first requires the Department of Justice (DOJ) to create a secure registry accessible to local law enforcement that lists individuals who have been convicted of being gang members. In addition, the measure calls for what it terms a statewide electronic data warehouse to facilitate the sharing of information about gangs and gang members among state, local, and federal law enforcement officials. The DOJ and other law enforcement agencies currently operate an electronic data system called Cal-Gang. The measure requires the new statewide data warehouse to interface with Cal-Gang.
- ***Hearsay Evidence.*** A legal statement is considered hearsay evidence when an attorney cannot cross-examine the witness making the statement. The measure would expand the circumstances in which hearsay evidence is admissible

in court, especially in cases where someone has intimidated or otherwise tampered with a witness.

- ***Gang Injunction Procedures.*** This measure changes legal procedures to make it easier for local law enforcement agencies to bring lawsuits against members of street gangs to prevent them from engaging in criminal activities and makes it a new and separate crime punishable by fines, prison, or jail to violate such injunctions.
- ***Temporary Housing for Offenders.*** The measure permits counties with overcrowded jails to operate temporary jail and treatment facilities to house offenders. These temporary facilities would be required to meet local health and safety codes that apply to residences.
- ***Undocumented Offenders.*** This measure prohibits persons charged with a violent or gang-related felony from being released on bail or their own recognizance pending trial if he or she is illegally in the United States. Sheriffs would be required to record in their official criminal history the immigration status of anyone charged, booked, or convicted of a felony.

Fiscal Effect

This measure would have significant fiscal effects on both the state and on county governments. These effects are discussed below.

State Funding for Criminal Justice Programs. The measure increases state funding for various state and local criminal justice programs by about $365 million in 2009-10. We estimate that this amount will increase by about $100 million annually within a decade due to the measure's provisions that require the state funding for some of these programs be adjusted each year for inflation. In addition, the provisions requiring the state to implement new gang databases would likely result in unknown one-time implementation costs, as well as potentially some ongoing costs to maintain these databases. The measure allocates $2 million annually of the $365 million for the statewide electronic gang data warehouse. In addition, the redistribution of the State Penalty Fund could result in about a $13 million loss in state General Fund revenues.

State Prison and Parole System. Various provisions of this measure would result in additional state costs to operate the prison and parole system. These costs are likely to be at least a couple hundreds of millions of dollars annually. These increased costs are mainly due to provisions that increase penalties for various crimes, decrease parole agent caseloads, and require the state to pay for the cost of GPS monitoring for sex offenders discharged from parole supervision. These provisions could also result in additional one-time capital outlay costs, primarily related to prison construction and renovation. The magnitude of these one-time costs is unknown but potentially could exceed a half billion dollars.

Other provisions of this measure could affect the state costs for operating the prison and parole system. The additional funding provided for local law enforcement activities could result in additional offenders being arrested, prosecuted, and sent to prison. However, the measure provides some additional funding for prevention and intervention programs for offenders designed to reduce the likelihood that individuals will commit new crimes. To the degree that these programs are successful, they could result in fewer offenders being sent to state prison than would otherwise occur. The magnitude of these offsetting effects is unknown but could be significant.

State Trial Courts, County Jails, and Other Local Criminal Justice Agencies. This measure could have significant fiscal effects on state trial courts, county jails, and other local criminal justice agencies, potentially resulting in both new costs and savings. The net fiscal effect of its various provisions is unknown.

On the one hand, the measure could result in increased costs to the extent that the additional funding provided for local law enforcement activities results in more offenders being arrested, prosecuted, and incarcerated in local jails. There could also be additional jail costs for holding undocumented offenders arrested for violent or gang-related crimes who would no longer be eligible for bail or be released on their own recognizance. The measure's provision permitting the use of temporary jail and treatment facilities would allow counties the authority to convert noncorrectional facilities to temporary jails. There could be additional costs to counties to renovate and operate such temporary facilities. The magnitude of these costs would depend primarily on the number and size of new temporary facilities utilized by counties.

On the other hand, the measure provides some additional funding for prevention and intervention programs designed to reduce the likelihood that individuals will commit new crimes. To the degree that these programs are successful, they could result in fewer offenders being arrested, prosecuted, and incarcerated in local jails than otherwise would. Additionally, the measure's provisions increasing criminal penalties for specified crimes could result in more offenders being sentenced to state prison who would otherwise be incarcerated in local jails, thereby reducing local jail operations costs.

Other Impacts on State and Local Governments. Other savings to the state and local government agencies could result to the extent that offenders imprisoned for longer periods under the measure's provisions require fewer government services, or commit fewer crimes that result in victim-related government costs. Alternatively, there could be an offsetting loss of revenue to the extent that offenders serving longer prison terms would no longer become taxpaying citizens under current law. The extent and magnitude of these impacts are unknown.

Summary of Fiscal Effects

This measure would have the following fiscal effects:

- Net state costs likely to exceed a half billion dollars annually primarily for increased funding of criminal justice programs, as well as for increased costs for prison and parole operations.
- Unknown one-time state capital outlay costs potentially exceeding a half billion dollars for prison facilities.
- Unknown net fiscal impact for state trial courts, county jails, and other local criminal justice agencies.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance

December 18, 2007

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative cited as the "Nonviolent Offender Rehabilitation Act of 2008" (A.G. File No. 07-0081).

This measure contains provisions that (1) expand drug treatment diversion programs for nonviolent offenders, (2) modify parole supervision procedures and expand prison and parole rehabilitation programs, (3) allow for additional credits for participation and performance in rehabilitation programs that could reduce the time certain offenders stay in state prison, (4) change the penalties for marijuana possession, and (5) make various other miscellaneous changes to state law related mainly to the organization of rehabilitation programs at the California Department of Corrections and Rehabilitation (CDCR).

PROPOSAL

Expansion of Drug Treatment Diversion Programs

Background

Probation and Parole. Both adult and juvenile offenders may be ordered by a court to be placed in supervision in the community, where they are subject to various conditions, such as reporting on a regular basis to authorities. Offenders supervised by county authorities are considered as being on probation, while offenders who have completed a prison sentence and who are under community supervision are referred to as having been placed on parole.

Three Types of Crimes. Under current state law, there are three basic kinds of crimes: felonies, misdemeanors, and infractions. A felony, the most severe type of crime, can result in a sentence to state prison, county jail, a fine, supervision on county probation in the community, or some combination of these punishments. Some felonies are designated in statute as violent or serious crimes that can result in additional punishment, such as a longer term in state prison. Misdemeanors are considered less serious and can result in a jail term, probation, a fine, or release to the community without probation but with certain conditions imposed by the court. State law defines certain drug crimes as "nonviolent drug possession offenses," which can be either felonies or misdemeanors. Infractions, which include violations of certain traffic laws, do not result in a prison or jail sentence.

Existing Drug Treatment Diversion Programs. Several programs now in existence permit criminal offenders who have committed drug-related offenses, or who have substance abuse problems, to be diverted from prison or jail or other forms of punishment:

- ***Penal Code 1000.*** Under Penal Code 1000 ("PC 1000") and related statutes certain drug possession offenders who have no prior drug offenses can be diverted to drug education or treatment programs, usually at their own expense, under a "deferred entry of judgment" arrangement. This means that the offender must plead guilty to the drug possession charges but that sentencing for the crime is temporarily suspended. If, after 18 months to three years, the offender successfully completes a drug treatment program and stays out of trouble, the charges against the offender are dismissed and the offense does not go on his or her record.
- ***Proposition 36.*** Proposition 36, enacted by the voters in November 2000, established a special drug treatment diversion program for certain offenders who are convicted by the courts for specific crimes the measure designated as nonviolent drug possession offenses. Under the measure, an offender convicted of such an offense can be sentenced to probation and treatment and cannot be sentenced to prison or jail. Some parole violators are also eligible for Proposition 36 diversion. The measure limits the sanctions, such as jail or prison, that can be imposed on Proposition 36 participants who violate the conditions of their drug treatment programs or commit new criminal violations related to drug possession.
- ***Drug Courts.*** Under drug court programs for criminal offenders currently funded by state and local contributions, certain offenders convicted of various types of crimes, including drug offenses, can be diverted to treatment in lieu of incarceration. Drug court participants are subject to regular monitoring by a court (as well as by probation officers and drug treatment providers) and are subject to a broader range of sanctions than Proposition 36 participants, including incarceration in jail or state prison, if they do not comply with drug program rules or commit new drug-related crimes.

New Diversion Programs Established

Three-Track System. This measure expands and largely replaces the existing PC 1000, Proposition 36, and drug court programs with a new three-track drug treatment diversion program primarily for nonviolent drug possession offenders. The three tracks, and some of the significant changes from existing diversion programs, are as follows:

- ***Under Track I,*** offenders who have no prior violent or serious offenses on their record could enter into a deferred entry of judgment arrangement with the court that does not require probation supervision. This initiative expands the availability of such diversion programs, particularly in that, unlike PC 1000, Track I permits offenders with one prior drug offense (as well as a current charge unrelated to drugs) to participate. A prosecutor would have the burden of proof to show that an offender was ineligible for Track I. Similar to PC 1000, an offender who completes an assigned drug treatment program and stays out of trouble would have the charges against them dismissed by the court. Track I is limited to a shorter period than PC 1000—between 6 and 18 months. Also, while participants in PC 1000 programs must pay the out-of-pocket cost of their drug education or treatment program, this measure generally provides for state funding of these programs for Track I participants.
- ***Track II*** establishes a modified form of the existing Proposition 36 programs, which would generally divert to treatment and probation for up to a year (24 months with extensions) offenders who have been convicted of a nonviolent drug possession offense. As under existing law, offenders cannot participate in Track II if they have had a violent or serious felony on their record during the prior five years. Track II differs from Proposition 36 by allowing diversion of offenders who were also convicted at the same time of a nondrug related crime. However, offenders with five or more offenses in the prior 30 months (other than infractions) would now be excluded from diversion under Track II.
- ***Track III*** is generally similar to existing state-funded drug court programs for adult felons, which would be folded into Track III, and generally provides treatment and probation supervision in lieu of incarceration in prison or jail for up to 18 months (24 months with an extension). In general, judges would be provided discretion as to which nonviolent drug possession offenders would be admitted, except that a drug offender excluded from Track II for having five or more prior felonies or misdemeanors in the prior 30 months must be placed in Track III. The measure allows both offenders who committed a nonviolent drug possession violation, as well as those who committed

other types of crimes but appear to have a drug problem, to be diverted to Track III treatment.

The measure permits offenders who have failed in Track I to be shifted to Track II, for offenders who have failed in Track II to be moved to Track III, and makes numerous other changes in the existing Proposition 36 statutes.

General Effect of These Changes. In general, the new Tracks I, II, and III, as established in this measure, would work in combination to (1) expand overall the types of offenders who are eligible for diversion; (2) further limit the circumstances under which sanctions, such as incarceration in prison or jail, could be imposed on offenders who violate drug treatment diversion program rules or commit new drug-related offenses; (3) establish new court procedures for diversion programs, such as a a follow-up hearing in court within 30 days when an offender assigned to treatment does not actually begin treatment; (4) require the collection and publication of data, specified reports, and research into the effect of these provisions by state agencies and public universities; and (5) significantly expand and intensify the services provided to offenders mainly by increasing the funding available to pay for them.

Funding Provisions. The *2007-08 Budget Act* appropriated $100 million to the Substance Abuse Treatment Trust Fund (SATTF), which was initially created under Proposition 36 to support treatment programs and other activities to implement the measure. This new initiative instead appropriates $150 million to the SATTF for the second half of 2008-09 and $460 million in 2009-10, with cost of living and population adjustments required under its terms. After monies are set aside for certain administrative and program costs, the measure designates 15 percent of the remainder for Track I programs, 60 percent for Track II programs, and 10 percent for Track III programs.

A new 23-member state Treatment Diversion Oversight and Accountability Commission would be established under this measure to set program rules regarding the use and distribution of SATTF funds and the collection of data for required evaluations of the programs and program funding needs. Under the terms of the measure, the state would discontinue funding for three specified drug court programs and in effect fold them into Track III. The measure otherwise generally prohibits the state or counties from using SATTF funds to replace funds now used for the support of substance abuse treatment programs. The initiative also requires that other available private and public funding sources, such as the Drug Medi-Cal substance abuse treatment program for the poor or fees charged to offenders who can afford them, be used to pay for treatment before monies from SATTF are spent for the drug treatment diversion programs.

New Juvenile Treatment Program Established

This measure creates a new county-operated program for nonviolent youth under age 18 deemed to be at risk of committing future drug offenses. The program would receive a set share of SATTF funding (15 percent, after certain implementation costs were deducted) that would be allocated to counties and could be used for various specified purposes, including drug treatment, mental health medication and counseling, family therapy, educational stipends for higher education, employment stipends, and transportation services.

Changes to State Parole and Rehabilitation Programs

This measure makes a number of changes to the state's current parole system, including new rules regarding which offenders can be returned to prison and jail for parole violations, revised parole terms, and requirements to provide programs for offenders returning to the community both before and after they leave prison. Below, we briefly outline how the parole system works and how it would be affected by these provisions.

Background

Parole Terms. Under current state law, offenders are released on parole for a set period of time, usually depending on the nature of the offense for which they were sent to prison. Most offenders are subject to a maximum three-year parole period, which can be extended under certain circumstances to four years, although they may be discharged earlier from parole if they stay out of trouble after their release to the community. Offenders who have committed certain crimes, particularly violent sex crimes or murder, are subject to longer parole terms.

Parole Revocations. Parolees who get in trouble after being released to the community can be returned to state prison via two different ways. One way is if they are prosecuted and convicted in the courts of a new crime—either a felony or a misdemeanor—and sentenced to an additional term in prison. Another way parolees can be returned to prison is through the revocation of their parole by actions of parole authorities and the Board of Parole Hearings (BPH) upon a finding that a parole violation has occurred. Revocation is an administrative process that does not involve any action by a court. In some cases, parole violations involve actions by parolees that could constitute a crime. But parole violations can also involve actions, such as failing to report to a parole office, that do not in themselves constitute a crime. These types of offenses are sometimes referred to as "technical" parole violations.

Rehabilitation Programs for Offenders. The state currently provides substance abuse treatment, academic education, job training, and other types of programs for prison inmates and parolees in order to reduce inmate idleness and to increase the likelihood of success in the community after their release from prison rather than return to crime. However, due to funding limitations, space constraints, and in some cases security concerns, the state does not now make such programs available to all inmates and parolees. Also, the state does not directly provide services for offenders after they have been discharged from parole, although some former parolees may qualify for public services, such as mental health or substance abuse treatment, that the state is helping to support.

New Limits on Parole Terms

This measure reduces the parole term of some parolees but allows longer parole terms for others. It specifies that offenders whose most recent term in prison was for a drug or nonviolent property crime, and who did not have a serious, violent, street gang-related, or sex crime on their record, would be placed on parole supervision for six months. Under the measure, these same parolees could be placed on an additional six months of parole at minimal supervision levels if they failed to complete an appropriate rehabilitation program that was offered to them during the first six months.

The parole terms of most other offenders would be limited under this measure to three years. However, this measure provides longer parole terms for some offenders. Specifically, this measure changes from three to five years the parole terms for any offender whose most recent prison sentence was for a violent or serious felony (such as first-degree burglary or robbery). Some violent sex offenders and other parolees would continue to receive even longer parole terms as provided under existing law.

New Rules for Revocation of Parole Violators

This measure establishes in statute that parole violations are to be divided into three types—technical violations, misdemeanors, and felonies—and generally prohibits certain parolees from being returned to state prison for technical or misdemeanor parole violations. This measure would nonetheless allow revocation of parolees who committed felony violations of parole, were classified high-risk by CDCR, or have violent or serious offenses on their record.

Under this measure, parolees who commit parole violations but who qualify for Proposition 36 would continue to be sent to drug treatment, as under current law. Parolees committing parole violations who are not eligible for Proposition 36 could face such punishments as more frequent drug testing or community work assignments for their violations. Some parole absconders, repeat violators, and parolees who committed misdemeanor parole violations could serve jail time, which under the measure would be at the expense of the state. Parole violators could also be placed in rehabilitation programs.

Expansion of Rehabilitation Programs for Offenders

This measure expands rehabilitation programs for inmates, parolees, and offenders who have been discharged from parole. Specifically, this measure requires that all inmates, except those with life terms, be provided with rehabilitation programs beginning at least 90 days before their scheduled release from prison. The measure directs CDCR to conduct an assessment of the inmate's needs as well as which programs would be most likely to result in his or her successful return to the community. Parolees are to be provided rehabilitation programs by CDCR tailored to the parolee's needs as determined in their assessment. Offenders would be permitted to request up to a year's worth of rehabilitation services within a year after they are discharged from parole. While these offenders would receive these services from county probation departments, all operational costs of these services would be reimbursed by CDCR under the terms of the measure.

Other Parole System Changes

Parole Reform Board Created. This measure creates a new 21-member Parole Reform Oversight and Accountability Board with authority to review, direct, and approve the rehabilitation programs and to set parole policies.

Costs Shifted to State for Drug Diversion of Parolees. Currently, most parolees who commit nonviolent drug possession violations of their parole, and who are subsequently diverted to drug treatment instead of being returned to prison, receive their Proposition 36 treatment services from counties. This measure provides that either CDCR or counties could provide such treatment services for parolees, but that CDCR would have to pay any county costs for doing so.

Pilot Programs for Parole Violators. This measure directs CDCR to establish five-year pilot projects in five regions similar to drug courts to divert certain parolees who have committed parole violations from prison to treatment and rehabilitation programs. Under the measure, the funding to carry out the programs could come either from the CDCR's budget or separate funding legislation.

Changes in Parole Revocation Procedures. This measure requires that the BPH conduct a hearing within three days after a parolee has been taken into custody for an alleged violation of parole. Current state practice, in keeping with a past settlement of a lawsuit relating to parolees' legal rights, is for the board to conduct such hearings within ten days. Consistent with current state practice, this measure amends state law to provide all such parolees a right to legal counsel at this hearing.

Reports and Studies. This measure establishes various requirements on state agencies to collect and report information relating to the inmate and parole populations and the effectiveness of rehabilitation programs for these offenders. These provisions affect

BPH, the new parole reform board, the Corrections Standards Authority, a newly created CDCR research division, and the Office of the Inspector General. Also, the measure would commission research by a public university on parole policies and practices that would be paid for out of the CDCR budget.

Credits for Performance in Rehabilitation Programs

Background

State law currently provides credits to certain prison inmates for performance in work, training, or education programs that can reduce the time they must serve on their sentences. (Credits can be taken away if an inmate commits disciplinary offenses while in prison.) Some offenders who were committed to prison for violent and serious crimes can earn only limited credits or can earn no credits at all. But a number of offenders are eligible to earn up to one day off their prison sentences for each day they participate in such programs. Offenders who agree to participate in such programs, but are not yet assigned to one, receive up to one day in credits for every three days they are in this situation.

Expanded Credits Permissible

This measure would change state law to permit certain inmates who were sentenced to prison for drug-related or property crimes to earn more credits to reduce their prison terms than are permitted under current state law. This measure permits the parole reform board established in this measure to authorize the award of additional credits based upon such factors as showing progress and completing rehabilitation programs. The measure does not limit the amount of such additional credits that could be awarded, but prohibits them from being awarded to any inmate who has ever been convicted of a violent or serious felony or certain sex crimes.

Change in Marijuana Possession Penalties

Background

Current state law generally makes the possession of less than 28.5 grams of marijuana by either an adult or a minor a misdemeanor punishable by a fine of up to $100 (plus other penalties and fines that can bring the total cost to as much as $370). Possession of greater amounts of marijuana, or repeat offenses, can result in confinement in jail or a juvenile hall, greater fines, or both. Revenues generated from these fines (including the additional penalties) are distributed in accordance with state law to various specified state and county government programs and funds.

Penalties for Marijuana Offenses Would Become Infraction

This measure would make the possession of less than 28.5 grams of marijuana by either an adult or a minor an infraction (similar to a traffic ticket) rather than a misdemeanor. Adults would be subject, as they are today, to a fine of up to $100. However, the additional penalties of any kind would be limited under this measure to an amount equal to the fine imposed. (For example, imposition of the maximum $100 fine could result in an additional $100 in penalties.) Persons under age 18 would no longer be subject to a fine for a first offense, but would be required to complete a drug education program. Repeat juvenile offenders would continue to face up to a $250 fine, but now would also be required to complete a drug education program. Also, under this measure, the fines collected from adults for marijuana possession would be deposited in a special fund to provide additional support of the new youth programs created by this measure.

Miscellaneous Provisions

Other provisions of this measure:

- Reorganize the way CDCR's rehabilitation and parole programs are administered and establish a new, second secretary of the department and a chief deputy warden for rehabilitation at each prison;
- Expand BPH from 17 to 29 commissioners;
- Require county jails to provide materials and strategies on drug overdose awareness and prevention to all inmates prior to their release;
- Specifies that, except for parolees, adults in drug treatment programs would receive mental health services using funding from Proposition 63, a 2004 initiative that expanded community mental health services.

Fiscal Effects

This measure would have a number of fiscal effects on state and local government agencies. The major fiscal effects that we have identified are summarized below.

Increase in State Costs for Expansion of Drug Treatment and Rehabilitation

This measure could eventually result in an increase in state costs exceeding $1 billion annually mainly for program and administration of an expansion of drug treatment and other services provided for eligible offenders.

Expenditures for New Drug Diversion System. As noted earlier, this measure appropriates $150 million from the state General Fund for the second half of the 2008-09 fiscal year (January through June 2009) to the SATTF, rising to $460 million annually in 2009-10, for support of the three-track drug treatment diversion program and the program for juvenile treatment services established in this measure. The 2009-10 funding level for these new programs would be more than $300 million greater than the General Fund appropriations provided in the *2007-08 Budget Act* for the programs they would replace for Proposition 36 treatment and drug courts. In subsequent fiscal years, the appropriations for the new programs would be automatically adjusted for the cost of living and every fifth year for changes in the state population, and thus would be likely to grow significantly over time.

The money in the SATTF could be used for various program and administrative costs to implement the new three-track drug treatment diversion system. It is likely that at least some program and administrative costs related to the expansion of drug treatment diversion would be borne by the state General Fund rather than being paid for out of SATTF. This would result in additional state appropriations for these purposes.

Expenditures for Inmate and Parole Programs. This measure could result in an increase of several hundreds of millions of dollars annually in state costs for expanded rehabilitation programs for offenders in state prisons, on parole, and in the community. These costs would be paid for primarily from the state General Fund and would not be paid for through the SATTF.

Other State Fiscal Impacts. A number of specific provisions in this measure could result in additional state program and administrative costs, potentially collectively amounting to tens of millions of dollars annually. These costs are not eligible for funding from the SATTF. Among the provisions that could increase state General Fund costs are:

- The requirement that the state reimburse counties (and some cities) for the incarceration of additional parole violators in jails;
- The requirement that the state reimburse counties for Proposition 36 drug treatment services that the counties provide to parolees;
- The provision directing CDCR to establish pilot projects to divert certain parolees who have committed parole violations from prison (these new programs would probably also result in savings to the state);
- The reorganization of CDCR management of prison and parole rehabilitation programs;
- Support of the new parole reform board created by this measure;
- Requirements that revocation hearings be conducted within three business days after a parolee was taken into custody;
- The expansion of the BPH by 12 commissioners; and

- The development of data systems and other work needed to comply with the mandates in this measure for various data reports and studies.

In addition, the provisions in this measure changing the penalties for marijuana use could significantly reduce state revenues from criminal penalties.

Level of Additional Costs Uncertain. The exact cost to the state of carrying out the various provisions of this measure are unknown and could, in the aggregate, be higher or lower than we have estimated by hundreds of millions of dollars annually, depending upon how this measure is interpreted and implemented. For example, the costs to the state of providing rehabilitation services to inmates during their last 90 days in prison could be significantly reduced to the extent that the state was able to redirect available space in education, substance abuse, and other programs toward these short-term inmates and away from inmates who had longer than 90 days to serve on their sentences.

Decrease in State Operating Costs for Prison and Parole Systems

This measure could result in a reduction in state operating costs that could eventually exceed $1 billion annually due mainly to reductions in prison and parole supervision caseloads, as discussed below.

Impacts From Drug Treatment Diversion Program. The three-track drug treatment diversion system created in this measure would significantly reduce the size of the prison population. This is because the measure (1) diverts specified additional nonviolent offenders to drug treatment programs instead of incarceration and (2) allows offenders who have violated diversion program rules or drug laws during their participation in drug treatment diversion programs to remain in treatment instead of being removed from those programs and incarcerated in state prison.

The proposed increase in the level of funding available for drug treatment diversion programs could also result in savings on prison operating costs. It could do so by (1) expanding the overall capacity in drug treatment diversion programs, thus providing additional opportunities for offenders to be diverted from prison and (2) making it possible for more offenders to receive the specific type of drug treatment (such as care in a residential facility) that would be most effective in addressing their drug problems, thus making them less likely to be involved in criminal activity in the future.

Other Prison Impacts. Other provisions of this initiative would also likely result in reduced prison and parole caseloads and related costs over time. These include the provisions in this measure that:

- Exclude certain categories of parole violators from being returned to state prison;

- Implement pilot programs similar to drug courts to divert from prison certain parolees who have committed parole violations;
- Allow certain inmates in rehabilitation programs to receive additional credits that would reduce the time they must serve in prison;
- Expand rehabilitation services for inmates, parolees, and offenders who have completed parole, thereby potentially reducing the rate at which they return to prison for new offenses;
- Reduce the period of parole supervision for certain nonviolent offenders. These savings would be partly offset by the increase in parole terms for some violent and serious offenders.

Parole Savings in the Longer Term. In the short term, this measure could increase parole caseloads by preventing parolees from being returned to prison for parole violations. In the longer term, however, this measure is likely to result in a significant net reduction in parole caseloads. That is because a reduction in the number of offenders in prison means ultimately that there would be fewer offenders being released from prison to parole supervision. The provisions in this measure reducing the period of time certain nonviolent offenders are placed on parole would also reduce parole caseloads.

Exact Savings for Prison and Parole Somewhat Uncertain. The exact level of net savings to state prison and parole costs from all of these provisions are unknown and could, in the aggregate, be higher or lower than we have estimated by hundreds of millions of dollars, depending upon how this measure is interpreted and implemented. For example, the expansion of credits to inmates in rehabilitation programs is permitted, but not required, by the new state parole reform board created in this measure. Also, the savings to prison and parole operations resulting from this measure could vary significantly over time. For example, some offenders initially diverted from prison to drug treatment programs under this measure, and who did not succeed in treatment, might eventually be returned to prison for committing crimes unrelated to drugs.

Net Savings on State Capital Outlay Costs

This measure could eventually result in one-time net state savings on capital outlay costs for new prison facilities that could exceed $2.5 billion. This net estimate of savings takes into account both (1) likely savings to the state from constructing fewer prison beds because of a reduced inmate population and (2) increased needs for prison program space due to this measure's requirement for expanding in-prison rehabilitation programs. The costs for additional program space could be substantially less if (1) the expected reduction in the inmate population frees up existing prison space now being used to house inmates that could instead be used for operating rehabilitation programs for inmates and (2) the requirement for expanding inmate rehabilitation programs with less than 90 days until their release is partly met by reducing program participation by inmates with more than 90 days to serve.

Unknown Net Fiscal Impact on County Operations

This measure provides more than $300 million in additional funding annually by 2009-10 for drug treatment diversion programs and juvenile programs that would be operated mainly by counties. Counties are likely to incur increases in expenditures over time for the programs, including administrative costs, that are generally in line with the increase in allocations that they would receive from the SATTF.

In addition, the measure could result in other increases and reductions in county operating costs and revenues. For example, a provision allowing the state to impose a requirement for matching funds in order for counties to receive SATTF funds could increase county costs, as could the provisions requiring use of Proposition 63 funds for mentally ill offenders placed in drug treatment diversion programs. The expansion of drug treatment diversion programs in this measure could reduce the population of offenders held in jails for drug-related crimes, and thus reduce county costs. The provisions affecting marijuana fines could reduce some county revenues, but redirect the revenues that are collected to county-operated programs for juveniles. Counties could also collect additional fees paid by drug offenders placed in treatment programs. The net fiscal impact of all of these factors on counties is unknown.

Unknown Net Fiscal Effect on County Capital Outlay Costs

Some counties could, as a result of this measure, face added capital outlay costs for housing parole violators who would be diverted from prison to jails. However, these costs could be offset by the diversion of drug offenders from jails to treatment in the community. The net effect on county capital outlay costs is unknown and would probably vary significantly from one jurisdiction to another, depending upon how this measure is implemented.

Other Fiscal Impacts on State and Local Governments

This measure could result in other state and local government costs. This would occur to the extent that additional offenders diverted from prison or jail, or released earlier from prison, under its provisions require government services or commit additional crimes that result in additional law enforcement costs or victim-related government costs, such as government-paid health care for persons without private insurance coverage. Alternatively, there could be offsetting state and local government revenue to the extent that offenders remaining in the community because of this measure become taxpaying citizens. The magnitude of these impacts is unknown.

Summary of Fiscal Effects

- Increased state costs that could exceed $1 billion annually primarily for expanding drug treatment and rehabilitation programs for offenders in state prisons, on parole, and in the community.
- Savings to the state that could exceed $1 billion annually due primarily to reduced prison and parole operating costs.
- Net state savings on a one-time basis on capital outlay costs for prison facilities that could exceed $2.5 billion.
- Unknown net fiscal effect on expenditures for county operations and capital outlay.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance

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CDCR Population Estimate

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
Adult Institutions					**Description**
Yard Conversions - Level Change	7,799	98	0	**7,897**	
Yard Conversions - Mission Change	3,882	1,440	2,723	**5,322**	
Yard Conversions - Gender Change	-926	649	788	**-277**	
Housing Unit Activations and Deactivations	-47,975	-5,414	11,195	**-53,389**	
Staff for Institutions (5.6:1)	-2,514	-450	-4,382	**-2,964**	
General Operating Expenses	-3,532	-454	-4,829	**-3,986**	
Health Care Operating Expenses	-1,863	-219	-2,233	**-2,082**	
Unallocated Bed Adjustment	12,662	22,398	84,485	**35,060**	
DOF Adjustment to Population	-45,665	0	0	**-45,665**	
Staffing for Mental Health Population: This funding category is used to adjust baseline staffing to reflect the needs of the mentally ill inmate population, including inmates in the Enhanced Outpatient Program and inmates in the Clinical Correctional Case Management Program.	0	-14,654	-14,660	**-14,654**	The GB proposes to correct errors that were made in fiscal years 2005-06 and 2006-07 where funding for the mental health population was added twice to the budget. This correction results in the elimination of 132 clinical staff positions. The department conducted a five year audit to make this determination.

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	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
Mental Health Crisis Bed Facility: Staffing for a 50-bed licensed Mental Health Crisis Bed facility at the California Medical Facility authorized by the 2007 Budget Act. This facility helps the state comply with the *Coleman* lawsuit.	7,720	0	659	**7,720**	The GB requests funding for 5 additional nurses to staff this unit. The department indicates that these positions are needed to meet Title 22 standards and be in compliance with state regulations. The department is in the process of hiring the staff authorized in the current year to support this new facility. The facility has not been open yet.
Psychiatric Services Unit (PSU) Expansion: Additional staffing and cell renovation to add 64 additional PSU beds at the California State Prison, Sacramento.	0	2,976	4,705	**2,976**	The GB requests 53 additional positions to staff this expanded unit. The majority of the staff requested are custody (39), the remaining are clinical and support. The request also includes $265,000 for cell renovation in the current year and $270,000 for 12 additional small management yards. The request also includes $82,000 for additional clinical and custody equipment.

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
Women's Condemned Row Exercise Yard: The condemned women at the Central California Women's Facility currently have to share the exercise yard with the segregation unit. This has severely limited the amount of yard time available to the condemned population. A recent lawsuit requires that Grade A (best behavior) condemned inmates have access to the same privileges as other inmates. An additional yard for the condemned inmates has been constructed to provide additional yard time and this proposal would provide staffing to support the new exercise yard for the 15 condemned women at the Central California Women's Facility.	0	71	304	**71**	The GB requests 3.4 additional custody positions to staff a new recreation yard dedicated to the 15 condemned women at the Central California Women's Facility.

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
Bonding Mothers with Babies Prison Nursery Program: This program provides up to 20 pregnant inmates with the opportunity to stay with their infants while incarcerated. The women eligible for this program must be in their second or third trimester of pregnancy with a release date from 9-15 months after their expected date of delivery. This program provides wrap-around services for the women and infants, including substance abuse treatment, parenting classes, and on-site pediatric services. The renovation of the nursery for this program was funded by private donors and services are provided by a collaboration of organizations. This program is located at the California Institution for Women.	0	167	207	**167**	The GB requests 1.1 positions and additional contract funds to continue support for this program. An additional social worker position is requested for third-watch to ensure specific needs of the mother and infant are addressed during this time period. A slight enhancement on the standard custody staffing is also requested to ensure adequate staffing on 1st and 3rd watch. Additional funding is also required to continue a contract that provides various services related to parenting and mediated visits to this program. The department indicates that activation of this facility has been delayed and there may be an adjustment in the May Revision.
***Valdivia* Case Records Positions:** Additional case records positions to address increased caseload associated with parole revocations.	5,035	0	1,863	**5,035**	The GB is requesting 32 additional positions to support case records preparation required by the *Valdivia* court orders.
Institutions Subtotal	***-65,377***	***6,608***	***80,825***	**-58,769**	

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
Contract Facilities					
In-State Private and Locally-Owned Prison Facilities: This item addresses changes in activation of in-state prison facilities that are both privately and publicly owned.	-947	428	13,833	**-519**	The GB is requesting $12.8 million in the BY to fund rate increases for three privately owned prisons in state. The GB is also requesting additional funding in the CY and BY to activate 45 additional female private prison beds. The GB also reflects some delays in activating 140 beds at a local government owned prison in the City of Adelanto.
In State Contract Bed Unallocated Adjustment	-9,268	-3,247	-67,415	**-12,515**	
Out of State Beds Activated in 2007: The out of state bed activation schedule assumed in the 2007 Budget Act has been delayed due to various factors. This has resulted in some savings in the current year.	81,280	-571	0	**80,709**	The GB includes an adjustment in the current year to reflect a slower than projected activation of out of state beds. The 2007 Budget Act was based on an assumption of an average daily population of 2,910 inmates out of state. The department now estimates that the average daily population housed in out of state facilities will be 2,672. This savings is offset by a corresponding increase in funding for in state institutions.

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	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
New Out of State Beds					
1. New out of state contract funds to activate a new 3,000 bed private prison in Eloy, Arizona. This additional funding represents the net cost of these out of state beds, which is the total contract costs less the institution savings from not housing the inmates in California prisons.	0	0	8,304	**0**	The GB is requesting additional funding to activate 3,000 new beds in a private prison in Arizona. The daily rate per offender for this facility is about $72 per day. The department estimates that the average daily population at the facility will be 1,875, as the department plans on starting the transfer of 300 inmates per month in July 2008. The department estimates that this facility will be fully activated by April 2009.
2. Pre-Transfer Processing: Expanded contracts for medical and mental health screening, attorney representation and custody overtime to continue pre-screening an additional 3,200 inmates in the budget year.	0	0	1,531	**0**	The majority of these costs are one-time as the department activates a new contract in Arizona. Future expenditures of only $386,000 will be needed to support the backfill of additional inmates to keep the new out of state facility at capacity. The GB request also includes additional funding for custody overtime.
3. Various Support Staff: Various support staff to support the expanded out of state bed program, including information technology, inmate classification, inmate appeals, accounting, and medical coordination.	0	0	996	**0**	The GB is requesting 5 positions and 4.2 temporary help positions to support the expanded out of state transfer program.

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
4. Management of Contracts: Expanded staffing to oversee additional private facilities out of state to ensure compliance with California laws, regulations, and court orders.	0	0	1,710	**0**	The GB is requesting 14 positions, mainly custody staff, to oversee a new private prison facility in Arizona that will house an additional 3,000 inmates out of state. These staff will ensure that the out of state facility is run in accordance with California laws, regulations and various court orders. These staff will make frequent visits to the out of state facilities to conduct reviews, including overseeing inmate classification. This funding request also includes $124,000 for additional equipment to assist in transferring documents between California and Arizona.
5. Transportation and Property: Additional equipment and overtime to transport additional inmates out of state. Also, increased contracts to deal with transporting inmate property.	0	0	1,713	**0**	The GB is requesting over $1 million for overtime to transport additional inmates to a new private facility to be activated in Arizona. The GB is also requesting additional funding to purchase a new bus and expanded contracts to transport inmate property.
6. Health Care Support: Additional staffing to monitor health care needs for the increased out of state population.	0	0	260	**0**	The GB is requesting 2 positions (1 registered nurse and 1 analyst) to monitor out of state facility to ensure health care compliance in these facilities. These positions will be directed by the court-appointed Receiver.
Out of State Contract Beds Staff Adjustment	2,894	0	3,928	**2,894**	

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
Staff for Leased Jail Beds	0	214	0	**214**	
General Operating Expenses for Leased Jail Beds	0	236	0	**236**	
Health Care Operating Expenses for Leased Jail Beds	0	110	0	**110**	
Unallocated Leased Jail Bed Adjustment	0	1,542		**1,542**	
Contract Subtotal	***73,959***	***-1,288***	***-35,140***	**72,671**	
Subtotal Adult Facilities	***8,582***	***5,320***	***45,685***	**13,902**	
Adult Parole					
Felon (70:1) Supervision	10,504	8,599	17,354	**19,103**	
2nd Striker (40:1) Supervision	1,384	1,366	1,575	**2,750**	
Enhanced Outpatient Program (40:1) Supervision	803	976	1,393	**1,779**	
Non-Felon (63.4:1) Supervision	-524	-183	-347	**-707**	
US ICE Pending Deportation	281	371	253	**652**	
US ICE Deported	70	-21	-1	**49**	
Parole Service Centers Supervision	67	-271	-59	**-204**	
Parole Service Center Contracts	2,929	-6,353	0	**-3,424**	The department indicates that there has been delays in activating these beds due to lack of local support for the centers and competing programs that provide higher reimbursement rates.
Parole Clerical Adjustment	2,315	194	95	**2,509**	
Parole Outpatient Clinics	3,900	2,812	5,811	**6,712**	
Parole Leased Jail Bed Adjustment	-25,505	0	1,913	**-25,505**	

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	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
Parole Subtotal	***-3,776***	***7,490***	***27,987***	**3,714**	
Board of Parole Hearings					
***Valdivia* Case Records:** Additional staff are needed to conduct parole revocation hearings within the timeframe and requirements of the *Valdivia* lawsuit.	1,365	1,223	2,291	**2,588**	The GB requests funding in the CY and BY to support 23 additional positions including 7 deputy commissioners to ensure timely parole revocation hearings in accordance with the *Valdivia* remedial plan.
Board of Parole Hearing Subtotal	***1,365***	***1,223***	***2,291***	**2,588**	
Other Adult					
Geographical Recruitment and Retention Bonuses for some institutions.	-302	0	0	**-302**	
Personnel Services Specialists.	705	0	0	**705**	
Health Records Technicians: For every 1 percent growth in CDCR's inmate population, CDCR requests 1.15 Health Record Technicians to address projected additional health records workload.	12	-81	29	**-69**	Due to population declines in the current year there is a slight reduction in Health Record Technicians. This item will be directly impacted by the court-appointed Receiver over medical care.

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	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
Move Female Civil Addicts from CRC to CIW: All female civil addicts housed at CRC have been transferred to CIW to provide additional space at CRC for male inmates and civil addicts and to consolidate all female offenders at female-only institutions.	0	0	734	**0**	The 2007-08 budget planned for a transfer of all female offenders housed at CRC to be moved to CIW. This budget proposal did not include the additional staffing CIW needed to serve this new population. This proposal provides the department with 8 custody positions to address additional urinalysis and escorts required by the civil addict population.
Misc. Adjustments	481	0	0	**481**	
Technical Adjustments	0	0	0	**0**	
Other Adult Subtotal	***896***	***-81***	***763***	**815**	
Adult Workload Total*	***7,067***	***13,952***	***76,726***	**21,019**	
*** This total is what the administration refers to as the fiscal impact of population growth or changes to existing mix of population.**					
Adult Policy Adjustment Category					
Parole Reform - Savings related to implementing a 12-month clean time discharge policy.	-31,205	0	0	**-31,205**	
Housing Change - Realignment of two housing units at California Medical Facility to accommodate the single cell status of inmates in these housing units.	-1,961	0	0	**-1,961**	

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
Drug Treatment Furlough - Funding needed to keep this program whole since the department was using aftercare funding to support this program. Aftercare funding is now needed to implement statutory requirements for mandatory aftercare.	10,928	0	0	**10,928**	
Stockton Re-Entry Facility: This is the first re-entry facility to be established by the department. It was authorized by Chapter 228, Statutes of 2007 (SB 943, Machado).	0	727	1,131	**727**	The GB requests 11 positions to serve as the pre-activation team for the new re-entry facility located at the old women's prison in Stockton, CA. These persons will be responsible for designing re-entry programs and services, engaging in ongoing communication with local stakeholders, establishing contracts with local providers, and hiring and training staff. Staffing to operate this facility is not included in this request and is expected to be included in the May Revision.

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	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
San Francisco Re-Entry Project: The department is planning to contract with San Francisco County to target 48 non-violent state prison inmates to participate in re-entry programming in the San Francisco County Jail in San Bruno. This project would also include the provision of re-entry programming and support once the inmates are paroled.	0	0	2,516	**0**	The GB is requesting funding for a contract with San Francisco County to provide incarceration and rehabilitation to 48 non-violent offenders. The department proposes to fund this program at a rate of $144 per day. This rate includes incarceration costs and the provision of programming to the offenders in custody and when paroled. This program is expected to be implemented on July 1, 2008.
Female Reform Proposals					
1. **Fresno Family Foundation:** Funding to activate a 35-bed community based correctional facility in Fresno that will provide wrap-around services to meet specific needs of the female offenders.	2,111	0	0	**2,111**	The department has indicated that there has been delays in implementing this facility and there will be adjustments made to this item in the May Revision.

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
2. Female Rehabilitative Community Correctional Center: The department is planning on implementing Phase II of a project to place up to 2,000 low-level female offenders in smaller community correctional centers closer to their homes.	1,725	2,927	20,593	**4,652**	The GB is requesting 22 positions and 5 limited-term positions in the current year to support the implementation of a new 75 bed community correctional center in Bakersfield and to continue to lay the ground work for activating another 1,200 community correctional center beds by the end of the budget year. The staffing includes a custody complement for staffing the new facility and clinical staff to implement a case management approach in the new center. The number of positions would increase to 149 in the budget year mainly to staff the additional beds that would come on-line in the budget year. Contract funding is requested in the current year to support the new Bakersfield center. Additional contract funding is requested in the budget year to support the activation of 1,200 additional contract beds in the second-half of the budget year. The per bed operating costs for the 75-bed facility in Bakersfield is estimated to be about $159 per day, including the contract costs and the field staff (custody and case management).

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	2007-08	2008-09	2007-08	
3. Female Offender Treatment and Employment Program: The department is planning to implement a 150-bed expansion to its existing FOTEP program. The FOTEP program is a residential parole program that provides substance abuse treatment, education and vocational training.	0	0	3,285	**0**	The GB is requesting funding to contract for 150 additional community beds to expand the existing FOTEP program for female parolees. The department is still developing a plan for contracting for these additional beds through the existing substance abuse treatment networks.
4. Female Residential Multi-service Centers: The department is planning to activate 575 multi-service center beds for parolees. These beds will be used to implement Chapter 875, Statutes of 2006 (AB 1453, Speier) that requires mandatory aftercare for certain parolees. In some cases these facilities will be co-located with the Female Rehabilitation Correctional Centers to promote continuity of care.	0	0	1,054	**0**	The GB is requesting 6 additional positions and operating expenditures to support the implementation of 275 multi-service center beds in the current year. The remaining 300 beds are scheduled to come on-line in the budget year and 2009-10 and staffing to support these activations is not included in this request. Funding is also included for a research contract to evaluate the recidivism outcomes of these beds. The 2007 Budget Act includes $7.1 million to support these contracts in the current year. The department indicates that it is close to activating its first 25-bed site in Sacramento.

	2007 Budget Act	Governor's Budget		Current Year Revised	
	2007-08	**2007-08**	**2008-09**	**2007-08**	
5. Beds in Sober Living Environments: The department is planning to contract for 750 beds in Sober Living Environment beds for female parolees. These beds would be located in smaller facilities and would be available for female parolees as a step-down after completing residential treatment. These facilities would also allow children to live on-site and provide women with additional support.	0	0	5,475	**0**	The GB is requesting contract funds to support the activation of 750 beds in Sober Living Environments. The department indicates that there is a shortage of step-down beds in Sober Living Environments dedicated to women and children.
Misc. Subtotal	***-18,402***	***3,654***	***34,054***	**-14,748**	
Local Assistance					
Pitchess Adjustment - Reimburse LA County because the state has not moved parolees out of the Pitchess Detention Center.	6,106	0	0	**6,106**	
Jail Rate Increase - A policy decision to provide counties with a $5.60 per day rate increase for the jail rate.	1,456	0	0	**1,456**	
Reimburse various county claims for medical, security, revocation hearings, and daily jail bed expenditures.	6,847	0	0	**6,847**	
Reimburse county transportation costs.	2,473			**2,473**	
Local Assistance Subtotal	***16,882***	***0***	***0***	**16,882**	
Adult General Fund Total	***5,547***	***17,606***	***110,780***	**23,153**	

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Monday, May 5, 2008
OUTCOMES

Public Safety Initiatives

Safe Neighborhoods Act: Protect Victims, Stop Gang, Gun, and Street Crime

Victims' Bill of Rights Act of 2008: Marsy's Law

Nonviolent Offender Rehabilitation Act of 2008

5225 California Department of Corrections and Rehabilitation

Population Estimate

Action.

- Held open the population estimate pending May Revision adjustments.
- Adopted the LAO budget bill language to ensure continued progress in improving the population estimate process.

Vote. 2-0 (Kehoe absent)

1. Out-of-State Beds

Action. Held this issue open pending the May Revision.

2. Female Bed Plan

Action. Held this issue open pending the May Revision. Requested that the administration release the female offender master plan directed to be developed by the department.

3. Re-Entry Facilities

Action. Pulled off the agenda.

Board of Parole Hearings

1. Lifer Hearing Process

Action.

- Approve this budget proposal, except for funding to support the Hearings Division ($628,000).
- Held the funding for the Hearings Division and the trailer bill language to add additional commissioner positions open pending further discussions about the impacts of redirecting two of the juvenile parole board members to address the need at BPH.
- Adopted supplemental report language to require the Board to prepare a report by January 10, 2009 to the Legislature on how it plans to improve its training program for board members and deputies.
- Requested that the department report back on the adequacy of the current compensation rates for attorneys representing lifers in the lifer hearing process.

Vote. 2-0 (Harman Absent)

Information Technology

1. Discharged Offender Records Management System

Action. Approved this budget proposal and the Finance Letter changes related to the DORMS project.

Vote. 2-0 (Harman Absent)

2. Business Information Systems Project

Action. Approved the Finance Letter proposals.

Vote. 2-0 (Harman Absent)

Other Issues

1. Office of Legal Affairs—*Keyhea* Hearings

Action. Approved this budget proposal.

Vote. 2-0 (Harman Absent)

2. Human Resources Support

Action. Held this issue open to allow for more time to review workload information submitted by the department.

3. Correctional Case Records

Action. Approved this budget proposal.

Vote. 2-0 (Harman Absent)

4. Custody Enhancement at Private Prisons

Action. Rejected this proposal.

Vote. 2-0 (Harman Absent)

5. TB Testing and Hepatitis B Vaccination—Staff Safety

Action. Approved this budget proposal.

Vote. 2-0 (Harman Absent)

Attachment A

Attachment B

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe

Thursday, May 8, 2008
10:00 a.m. or upon adjournment of session
Room 112

Consultant: Bryan Ehlers

"B" Agenda

Item Number and Title **Page**

Vote-Only 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.

Item Proposed for Vote-only

Control Section 11.00 EDP / Information Technology Reporting Requirements

This Control Section (CS) generally requires departments to obtain DOF and legislative approval before entering into an IT project contract that would increase the budgeted cost of the project by more than $500,000 or 10 percent, whichever is less.

Staff Comment: This item was previously held open to allow staff to discuss with the Legislative Analyst's Office (LAO), the Department of Finance (DOF), and Office of the Chief Information Officer (OCIO) the potential need for a technical change to tighten up the reporting required under this CS. However, based on subsequent discussions, and because the Subcommittee faces many more pressing issues in the current fiscal crisis, staff has clarified the Legislature's expectations regarding reporting under the CS and all parties will address the need for language revisions at a future date, as needed.

Staff Recommendation: APPROVE AS BUDGETED.

VOTE on Vote-Only Item:

Items Proposed for Discussion

0502 Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) establishes and enforces statewide information technology strategic plans, policies, standards, and enterprise architecture, and provides review and oversight of information technology projects for all state departments.

The OCIO was created under Chapter 183, Statutes of 2007 (SB 90—Budget Trailer Bill), and was initially provided $4.7 million special fund, and 23.4 positions in FY 2007-08. The Governor's Budget proposes $6.7 million GF and 32.3 positions for the OCIO in FY 2008-09.

DISCUSSION ITEM:

Pro Rata/SWCAP Cost Recovery Proposal. The Governor's Budget includes $6.7 million GF as an ongoing funding source for the OCIO. The Administration proposes to use a Pro Rata and Statewide Cost Allocation Plan (SWCAP) cost recovery program to support the GF expenditure.

Staff Comment: The OCIO's budget, including the proposal to fund the agency under a Pro Rata/SWCAP Cost Recovery plan, was discussed at a previous hearing. Although prepared to recommend approval of the item, the Chair held the item open as a courtesy to an absent Senator Dutton. Senator Harman, Senator Dutton's successor on the Subcommittee may wish to comment on the proposal.

Staff Recommendation: APPROVE the OCIO budget.

VOTE:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments, and also oversees programs for small business advocacy, rural policy, and environmental justice. Additionally, the office has responsibilities pertaining to state planning, California Environmental Quality Act (CEQA) assistance, environmental and federal project review procedures, and volunteerism. The California Volunteers program (CaliforniaVolunteers) administers the federal AmeriCorps and Citizen Corps programs and works to increase the number of Californians involved with service and volunteerism.

The Governor's Budget begins by funding 99.1 positions (including 7.0 new positions) and budget expenditures of $52 million (including $10.6 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $1.0 million.

VOTE-ONLY ITEM:

1. Finance Letter (FL)-1: Technical Correction. The OPR seeks to correct an inadvertent technical error in the preparation of Budget Bill Item 0650-001-0001. The correction requires an increase of $572,000 to the State Planning and Policy Development Program and an offsetting reduction of $572,000 to CaliforniaVolunteers.

Staff Comment: The errors in question were clerical in nature and are related to adjustments for employee compensation and a land use study that were originally reflected in the wrong budget item.

2. Staff Issue: Additional Technical Correction. The OPR indicates that another error was made in building the FY 2008-09 budget for the California Volunteer Matching Network (CVMN). With the CVMN set to expire after two years, at the end of FY 2007-08, the OPR removed $1,140,000 (the original, FY 06-07, level of funding) from Item 0650-001-0001, Program 21, instead of the $1,203,000 provided in the FY 2007-08 base budget. Therefore, the aforementioned item needs to be reduced by an additional $63,000.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS 1 and 2: APPROVE the technical corrections.

VOTE on Vote-Only Items 1 and 2:

DISCUSSION ITEMS:

1. BCP-1: Senate Bill 97 Implementation, CEQA Guidelines. The OPR requests $537,000 GF and 4.0 positions on a one-time basis to implement Chapter 185, Statutes of 2007 (SB 97—Dutton), which requires the OPR to prepare and transmit to the

Resources Agency by July 1, 2009, draft guidelines (state regulations) for the mitigation of greenhouse gas emissions, as required by CEQA.

Staff Comments: This issue was previously heard on March 26, 2008, and the Chair indicated his inclination to deny the proposal unless the Administration was able to show that the request would directly impact health and safety, and/or generate off-setting savings. The issue was held open as a courtesy to Senator Dutton who was absent at the time. Staff notes that, to date, the Administration has been unable to provide information adequate to address the Chair's concerns.

Staff Recommendation: DENY the request based on the fiscal crisis-criteria outlined by the Chair, and encourage the Administration to carry out the intent of the legislation to the degree possible using existing resources.

VOTE:

2. FL-2: Transfer of Governor's Mentoring Partnership to CaliforniaVolunteers. The Governor proposes to transfer the resources currently associated with the Governor's Mentoring Partnership (1.0 position and $107,000 GF) from the Department of Alcohol and Drug Programs to CaliforniaVolunteers.

Staff Comment: Executive Order S-02-08 directed the Governor's Mentoring Partnership (GMP) to be relocated to CaliforniaVolunteers, and this request indicates the merger would "strengthen current efforts to increase the number of Californians who mentor youth, improve efficiencies of programming, and create a single point of contact for all nonprofits seeking volunteers and mentors."

According to the OPR, CaliforniaVolunteers "currently has strong relationships with a number of nonprofit organizations that recruit, train, and match potential mentors." Staff notes that, while additional resources could assist CaliforniaVolunteers in expanding its efforts in this area, the requested transfer of resources is not necessary to make CaliforniaVolunteers the single point of contact for those seeking volunteers and mentors—that is, the "powers and duties" of the GMP are separate and distinct from any staff and resources it has been provided. Rather, the subcommittee may wish to eliminate the 1.0 position proposed for transfer and score $107,000 GF savings, unless the OPR can demonstrate that these resources would generate greater benefits at CaliforniaVolunteers than in providing direct services in some other programmatic capacity.

Staff Recommendation: DENY the request, eliminate the position, and score $107,000 GF savings.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and 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 procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of $1.2 billion (including $7.9 million General Fund) for the department, but then includes a 10-percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $794,000, to be taken from the State Capitol maintenance and repairs program.

VOTE-ONLY ITEMS:

1. FL: Custodial Services for the Department of Technology Services (DTS) and the Department of Motor Vehicles (DMV). The DGS requests 17.0 positions, including one Custodian Supervisor II, to be paid for out of existing resources to provide custodial services to the DTS and DMV at the following locations:

- DTS – 3101 Gold Camp Drive, Rancho Cordova (6.0 custodians)
- DMV – 7775 La Mancha Way, Sacramento (3.0 custodians)
- DMV – 6400 Manila Avenue, El Cerrito; and 501 85th Avenue Oakland (5.0 custodians)
- DMV – 11400 West Washington Blvd., Culver City (2.0 custodians)

Staff Comment: The Department of Finance (DOF) has informed staff that the 10.0 positions requested for DMV should be removed from the proposal because the corresponding DMV request for increased appropriation authority was denied by the DOF. Of the remaining 7.0 positions, 6.0 would supplant services currently contracted out to the Lincoln Training Center (LTC) at the DTS Gold Camp facility. Staff notes that the remaining 1.0 position, a custodian supervisor, does not appear to be justified by the requested 6.0-custodian increase given that the DGS required only 1.0 supervisor for 13.0 new custodians in an earlier BCP approved by the Subcommittee (Ronald Reagan Building).

Staff Recommendation: APPROVE 6.0 custodians for the DTS Gold Camp site and DENY the remaining 11.0 positions.

2. BCP-10: Legal Services Workload. The DGS requests 3.0 positions to address additional workload in the DGS Office of Legal Services (OLS).

Staff Comment: This item was discussed at a previous hearing and held open to provide the DGS with an opportunity to demonstrate the workload supporting the request was more than speculative. However, upon further review, the Administration has elected to withdraw this request due to insufficient workload justification.

Staff Recommendation: DENY the request (in recognition of the fact that the Administration no longer supports this request).

3. FL: General Fund Appropriation to Refund Federal Unallowable Costs. The DGS requests $3,250,000 GF to refund federal unallowable costs related to the Legislature and the Governor's Office that were incurred in FYs 2002-03, 2003-04, and 2004-05.

Staff Comment: Historically, the DGS budget contained a GF appropriation to cover certain general government services and costs, including some related to the Legislature and the Governor's Office. However, DGS' GF appropriation was deleted for FY 2002-03 and was not restored again until FY 2005-06. During the three intervening fiscal years, over $17.0 million in unallowable costs were included in DGS rates billed to client agencies, including $3,250,000 in federal non-reimbursable costs. Although the Department of Finance reached an agreement to allow the state to delay repayment of these funds until September 1, 2008, and pay interest at the state's internal rate of return, if the funds are not repaid at that time, the interest will begin accruing at the current Private Consumer rate, which will likely be higher.

Staff Recommendation: APPROVE the request.

4. Capital Outlay FL: Renovation of H and J Buildings—Patton State Hospital. The DGS requests reappropriation of $2,017,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990), originally approved in FY 2007-08 for working drawings in the renovation of buildings H and J at Patton State Hospital.

Staff Comment: According to the DGS, the preliminary plans were originally anticipated to be completed before June 2008, but the schedule has been extended in order to have the project designed and certified to LEED-NC (Leadership in Energy Efficient Design-New Construction) standards. The DGS now anticipates the preliminary plans will be completed in July 2008 and working drawings in February 2009.

Consistent with the action taken on other seismic safety capital outlay projects, the Subcommittee may approve the requested reappropriation of "old" earthquake safety bond dollars and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified.

Staff Recommendation: APPROVE the request.

5. Capital Outlay FL: Sacramento Public Communications Decentralization. The DGS requests $812,000 (various funds) to proceed with preliminary plans for the relocation of critical public safety communications from the top floor of the Resources Building in Sacramento to more seismically safe and less centralized locations.

Staff Comment: The Legislature approved FY 2007-08 funding for the acquisition phase of this project from a variety of sources including the State Highway Account, Motor Vehicle Account, Fish and Game Preservation Fund, Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990.

The DGS anticipates future project costs of $3.2 million in FY 2009-10 for working drawings, and $22.0 million in FY 2010-11 for construction. These costs would be funded from the same sources identified above, except newly proposed infrastructure bond funds would replace the "old" earthquake safety bond funds. Staff notes that the Subcommittee previously denied (March 26) the Administration's trailer bill language containing the new infrastructure bond proposal. However, consistent with the approval of 2007-08 funding for this project, the Subcommittee may wish to approve this request and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified to replace the "old" earthquake safety bond dollars.

Staff Recommendation: APPROVE the request.

VOTE on the Staff Recommendation for Vote-Only Items 1 through 5:

DISCUSSION ITEMS:

1. BCP-12: Bond Accounting Workload. The DGS requests 5.0 positions and $464,000 (Service Revolving Fund) in FY 2008-09 (and an additional 3.0 positions and $268,000 in FY 2009-10) to address increased bond accounting workload resulting from: (1) historic growth in State Public Works Board (SPWB) revenue bonds, including $7 billion in outstanding bonds, half of which has emerged in the last six years; (2) $7.3 billion in new SPWB revenue bonds authorized under Chapter 7, Statutes of 2007 (AB 900) for the Department of Corrections and Rehabilitation Prison Bed Construction Project; and (3) $64 million in California Energy Commission bonds that were transferred to the DGS effective August 2007.

Staff Comment: During discussion at a previous hearing, the Subcommittee raised concern that the workload associated with AB 900 projects was highly speculative given that no projects have yet been approved. Since that time, the Administration has revised its proposal and withdrawn the request for 2.0 of the positions associated with this workload. Staff notes no concerns with the remainder of the workload.

Staff Recommendation: DENY 2.0 positions (proposed for FY 2009-10) and APPROVE the remainder of the BCP (5.0 positions in FY 2008-09 and 1.0 in FY 2009-10.

VOTE:

2. FL: Office of State Publishing (OSP)—Graphic Design Workload for Department of Public Health (DPH). The DGS requests 2.0 positions, to be supported by redirected resources, to address additional workload resulting from a contract with the California DPH for the development and revision of educational materials and forms.

Staff Comment: The federally funded Women, Infant and Children (WIC) Program has proposed a three-year contract with the OSP for design, video, printing, and distribution services. According to the DGS, the OSP is staffed to handle all of the work required except the graphic design, which would require an additional 2.0 full-time Graphic Designer IIIs. The cost of these Graphic Designers would be fully recovered in reimbursements to OSP through the contract; however, if the Subcommittee decides to approve the requested permanent positions then it should require the department to verify the need (via reporting) for the positions to remain permanent at the end of three years.

Staff Recommendation: APPROVE the request with supplemental reporting language to be developed by staff (requiring the OSP to inform the Legislature of the actual workload and the need for ongoing position authority at the end of the proposed three-year contract).

VOTE:

3. FL: Office of Administrative Hearings (OAH)—Unanticipated Workload in Special Education Resolution Program. The DGS requests 3.5 positions and $357,000 (special fund) to address new and unanticipated special education resolution program workload.

Staff Comment: Federal special education law requires that states receiving federal special education funding maintain a due process system to resolve disputes between parents and school officials regarding compliance with federal laws governing the education of students with disabilities receiving special education services. Federal law prohibits the California Department of Education (CDE) from acting as the administrative hearing agency for such disputes, in order to avoid conflict of interest.

Prior to 2004, California law required the CDE to contract with a single nonprofit organization or entity to provide due process services. This statute reflected the interest in maintaining some impartiality or independence for this function. Beginning in 1989, the CDE contracted with the McGeorge School of Law to serve as the administrative hearings agency for these disputes. However, the California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment (CASE) launched a successful challenge to the McGeorge contract and budget trailer bill language was approved as part of the Budget Act of 2005 to allow the CDE to contract with a state agency to perform the work. In a subsequent open bid process, the OAH came in 30 percent lower than McGeorge and won a three-year, $30.4 million contract to provide dispute services. That year, the education omnibus budget trailer bill, SB 63, codified various data requirements for the new due process contract in order to assure the continuation of data previously provided by McGeorge.

According to the DGS, this request for 3.5 additional positions is necessary because, with the OAH's original three-year contract set to expire, the new interagency agreement (IA) with the CDE would place expanded mandates upon the OAH, including additional reporting requirements. However, staff notes that most of the requirements contained in the new IA, and identified by the OAH as "new" workload, appear to be minor variations on existing reporting. Many are merely more explicit descriptions of data that the OAH is already required to track, or would, of necessity, already be tracking in the normal course of business. Although staff notes that some proposed requirements may impose new work (for example, the OAH would have some enhanced training responsibilities and need to keep the CDE apprised on these activities), it is unclear that the OAH needs additional resources to meet these requirements. The OAH was originally staffed based upon an estimated annual workload of 3,410 cases; however, given that only 2,747 cases were filed in FY 2006-07, and only 3,000 are expected to be filed in FYs 2007-08 and 2008-09, staff believes that the OAH ought to be able to meet all expectations under the proposed IA within existing resources. Staff additionally notes that the CDE has not been provided additional funding authority to increase the amount of the contract.

Staff Recommendation: DENY the request.

VOTE:

4. Capital Outlay FL: Library & Courts Building Renovation—Cost Increase (with Provision Language). The DGS requests a $16.0 million (special fund) supplemental construction appropriation for renovation of the Library & Courts Building in Sacramento.

Staff Comment: At an earlier hearing, the Subcommittee approved a reappropriation of construction funds that was made necessary by delays to this project. The delays arose when the original plan to phase construction around continuous occupancy of the Library & Courts Building had to be abandoned because it was determined that the safety of the occupants and historical documents would have been substantially compromised. This request reflects a 32.5 percent increase in project construction costs stemming from the delay and other factors. The DGS attributes the cost increases to:

1) Availability of more detailed drawings on which to base estimates;
2) Delay of construction;
3) Rapid escalation in costs for raw materials and increased labor rates;
4) Program efficiency enhancements.

While construction project delays are not uncommon, and increased costs nearly always accompany such delays, staff notes that some of the increased costs contained in this request are the result of other decisions made by the DGS. For example, $2.7 million of the increase reflects a change in the scope of the project to make tenant improvements in the Library & Courts Building so that Courts' staff currently located at the Library & Courts II Annex (the Annex), at 900 N Street, may be permanently relocated across the street at the Library & Courts Building. Currently, Library and Courts staff are each divided between the Annex, and the Library & Courts Building; however, with the need to temporarily relocate staff, the Administration determined that operational efficiencies could be achieved by permanently moving all Courts staff into the Library & Courts Building once renovation was complete. Staff notes that this request does not contain any quantitative analysis to support the Administration's claims of increased efficiencies. However, in supplemental materials forwarded to staff, the Administration claims the following benefits would accrue to the state as a result of the requested move and associated tenant improvements:

- **Storage** – Approximately $11,000 in annual off-site file-storage costs avoided.

- **Security** – Approximately $56,000 in annual cost avoidance associated with requiring one less Court security staff (currently assigned to monitoring the Annex).
- **Records & Documents** – Approximately 812 annual hours of avoided "travel time" between the two buildings (currently required in order to deliver various records and documents, such as urgent writs). Staff notes that this estimate equates to nearly 0.5 Personnel Years, but the Administration does not recognize any associated cost savings. Rather, the Administration wishes to view this as an opportunity to achieve increased service capacity (through improved efficiency), while holding existing programmatic expenditure levels constant.
- **Chamber Space / Additional "Judge" Costs Avoided** – Approximately $669,000 in annual costs avoided in out years due to the ability to house a pro tem judge in additional chamber space, thus avoiding the need to hire a 12th Appeals Court justice and related staff (including 3.0 staff attorneys and judicial assistant) to address an increasing caseload.

Staff notes that, while the above estimates appear analytically reasonable, the Administration has indicated no willingness to "score" the estimated cost savings by reducing the Courts' budget. Therefore, the Subcommittee must determine whether the additional Budget Year cost is justified by improved program performance alone, as opposed to off-setting fiscal benefits (that would be reflected in the state's "bottom line").

Additionally, staff notes procedural concerns that the DGS has proposed such significant changes to this project after working drawings were 75-percent complete. While the Subcommittee may hear testimony that adequately addresses the above cost concerns, it may wish to consider whether approval of the expanded scope of this project would set a bad precedent, and, instead, choose to deny a portion of the requested funding for this reason alone.

Staff Recommendation: APPROVE $13.3 million, but DENY $2.7 million unless the Administration is willing to "score" consolidation savings by reducing the Courts budget.

VOTE:

5. Informational Item: Shower Repairs at the Veterans Home of California (VHC)—Chula Vista. Multiple shower benches at VHC—Chula Vista have failed over the past several years and the Administration recently provided the Legislature with notification for the approval of $2.6 million (GF) in deficiency funding to renovate 81 showers at the facility.

Staff Comments: On September 12, 2007, the Department of Finance (DOF) submitted to the Legislature a "Notification of Receipt of Deficiency Funding Requests from the [California] Department of Veterans Affairs [CDVA]" that included $1.0 million to remediate "issues resulting from improperly constructed showers" at Chula Vista. Although the notification did not provide many additional details on the nature of the problem, the Legislature learned from CDVA and DOF staff that in June 2007 a shower bench had failed (come out of the wall) while in use by a resident. As the Assembly Committee on Veterans Affairs held a November hearing on the matter and more information continued to emerge throughout the fall and winter, the Legislature learned that this was not the first shower bench failure at Chula Vista. In fact, the DGS—who oversaw construction at the home—had returned to Chula Vista in 2002, shortly after the home opened, to correct improper installation of shower benches in the Skilled Nursing Facility (SNF) unit, only for a shower bench to come loose from the wall in SNF Unit 300 in December 2005. In this latter instance, the CDVA identified the problem as an "integral defect"—no moisture barrier and improper tile substrate (allowing water to infiltrate the tile and reach the wooden substructure)—and the department subsequently began repairs to all showers in the unit. However, the CDVA did not test shower walls in other units and therefore did not detect a larger problem until another shower bench (in a different building) failed in 2007.

As the need for the CDVA to rapidly repair previous shower problems erased the forensic evidence necessary for the DGS to diagnose the root cause of the shower bench failures, the DGS recently undertook destruction of multiple showers to ascertain the root cause of the failures. The following statement from the DGS documents the department's most recent efforts and near-term plan for addressing the shower problems at Chula Vista:

> *The DGS is working with the CDVA to take action to address any issues associated with the construction deficiencies and in particular the water intrusion into the wall cavities in the shower rooms throughout the Chula Vista campus. In March 2008, the DGS proceeded with a forensic investigation of the water intrusion into twelve showers to assess the cause of the water intrusion. The investigation started on March 3, 2008 and concluded on March 21, 2008. During the initial investigation samples were taken of cultures inside the wall cavity and air samples were also taken inside the wall cavity and outside in the occupied space. All of the rooms were identified with mold cultures and ten of these twelve showers were identified with water intrusion in the wall cavity.*
>
> *The identified causes of the water intrusion were the following:*
>
> - *The shower waterproofing pan is minimal (one layer of hot mopped felt) and the felt does not continue up the walls of the shower.*
> - *The escutcheon plate around the shower valves tend to leak.*
> - *The electrical box in the showers for the nurse call system in some showers is not water tight.*
>
> *The estimated cost to complete the shower repairs is $2,610,000. The actual cost will be known when the bids are received which is scheduled for early June. The construction phase of the shower repairs is scheduled to start in July and is estimated to be complete in 20 months.*
>
> *DGS is in the process of conducting a further investigation to determine the cause and the responsible party associated with the construction deficiencies at the Chula Vista Home. Since CDVA occupied the Chula Vista Home, staff determined immediate repair was necessary for the health and safety concerns of the occupants. As a result, this did not allow the general contractor an opportunity to review and determine whether they had any responsibility in correcting the defects. The State may have minimized its position related to the responsibility associated with the construction deficiencies. However, the State did forward on March 7, 2008 a notification letter to the contractor and its sureties of the construction defects found at the Chula Vista Home. Several of the*

sureties and the contractor's representative that finished the project have contacted the State for further information. It is anticipated that the consultant will start further investigation the first week in May with completion data by mid June. Upon completion of the investigation, DGS will provide an updated report on the findings which will identify the ultimate cause and responsibility for the known deficiencies.

Staff notes that the Legislature has raised no objections to funding the requested deficiency, because ensuring the health and safety of veterans home residents is the state's most immediate concern. However, as has been discussed in CDVA budget hearings, the Legislature also wants to make certain that the following questions are ultimately answered to its satisfaction:

(1) **What is the problem with the Chula Vista showers?** Did the shower bench failures result from inadequate/defective design or failure to properly execute an adequate/effective design? Why do we have water intrusion in shower walls at a relatively new facility?
(2) **How did the state building design and construction process break down such that the shower "problem" was allowed to develop?** If the design was adequate but carried out improperly by the contractor, was the decision to deviate from the design made and signed off on by the DGS, or did the contractor make a unilateral decision? If the former, who made the decision and why? If the latter, how did the DGS or the CDVA fail to catch the issue before the state took over the building? Does the contractor bear fiscal responsibility for any or all of the $2.6 million in projected shower repair costs?
(3) **What is the DGS doing to ensure that the "problem" identified above is corrected relative to future projects?** Although the individuals originally assigned to the Chula Vista project may no longer be with the DGS, what steps has the department taken to develop policies and procedures to safeguard against a recurrence of similar construction problems?

Given that the DGS is still investigating this matter, the Subcommittee may wish to request the department to continue to update staff on future developments, including the results of the continuing investigation, scheduled for completion in mid-June 2008.

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the 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 DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 805.5 positions (a net increase of 37.7 positions relative to current year adjusted totals) and expenditures of $279.6 million (special fund).

VOTE-ONLY ITEM:

BCP-6: Security Workload. The DTS requests 4.0 positions and $415,000 (DTS Revolving Fund) to address serious security deficiencies in the current DTS systems and architecture.

Staff Comment: As discussed at a previous hearing, this request contained no quantified workload justification when it was transmitted to the Legislature. Due to the sensitive nature of information technology security, the Subcommittee gave the department the benefit of the doubt and held the item open rather than denying it outright.

Based upon additional information provided by the DTS, staff no longer has concerns with this proposal. According to the DTS, these positions would be used to address the areas of asset protection and vulnerability management.

Staff Recommendation: APPROVE as budgeted.

VOTE:

DISCUSSION ITEM:

FL: New Central California Data Center—Request for Long-Term Lease with Purchase Option Authority. The DTS requests provisional language to be added to Item 1955-001-9730 to authorize the DGS to enter into a long-term lease with purchase option for a new Central California data center.

Staff Comment: As discussed at a previous hearing, the DTS currently operates two main data centers in the Sacramento area—Gold Camp and the Cannery. The DTS proposes to replace the data center capacity currently located at the Cannery site and provides all of the following as justification:

- Given their close proximity to one another, the DTS is concerned that both data centers could be compromised in the event of a disaster in the Sacramento area. This represents a threat to DTS operational recovery.

- Based on a 2006 analysis performed by an outside evaluator, several risks are inherent to the Cannery site, including the following: (1) the site is located in the 100-year floodplain and there is no practical way to mitigate the risk; and (2) the site has security vulnerabilities because it is located adjacent to train tracks and busy streets with no perimeter boundary or fencing.

- According to the same 2006 analysis referenced above, the Cannery facility has infrastructure problems, such as inadequate electrical and cooling systems, which would require in the range of $16.0 million to $23.0 million to address.

- The Cannery lease is due to expire in May 2011, and the landlord has indicated a desire to convert the property to residential use rather than renew the state lease.

Based on the above, the DTS began working with the DGS to look for an alternative data center site outside the Sacramento area. The DTS now indicates that a potential site has been identified in Central California and the department is seeking authorization to enter into a lease-purchase agreement for a build-to-suit facility. According to the DGS, based on an occupancy date of 2011, the total project development costs would run approximately $117.0 million, with a 25-year term and private financing of 5.57 percent.

Because the cost of this request would ultimately be borne by DTS customers, the Subcommittee may wish to hold this item open until the May Revise hearing, by which time the Administration will have had time to respond to the following clarifying questions recently raised by staff:

- What is the likely rate impact that would result from the current DGS cost estimate? Will the Administration agree to budget bill language requiring an updated rate impact estimate to be provided with the 30-day notice of intent to enter into the lease agreement?
- What is the basis for the DGS' current rent estimate? (For example, what geographic area was used as the basis for the calculations? What other key assumptions were made?)

Staff Recommendation: HOLD OPEN.

VOTE:

8640 Political Reform Act of 1974

Statute appropriates various amounts to the Secretary of State, the Franchise Tax Board, and the Department of Justice to carry out their duties under the Political Reform Act of 1974.

The Governor's Budget begins by providing $2.8 million GF for this item, but then includes a 10 percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of $275,000 (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction. The Governor proposes a $275,000 unallocated GF reduction to the Political Reform Act of 1974 item.

Staff Comment: The Governor's proposed reduction would be shared among the three departments funded by this item as follows:

- Secretary of State (SOS) to be reduced by $79,000 (from $790,000 to $711,000).
- Franchise Tax Board (FTB) to be reduced by $175,000 (from $1,747,000 to $1,572,000).
- Department of Justice (DOJ) to be reduced by $21,000 (from $216,000 to $195,000—with the reduction taken in program 50 - law enforcement).

This item was held open at a previous hearing due to insufficient information from the Administration. However, based on the subsequent detail provided, staff has no significant concerns with the following anticipated impacts of the reduction:

- SOS—Eliminate publication of a hard copy Lobbyist Directory. The directory would be available on-line and on a compact disc (available for $10).
- FTB—Eliminate 2.0 audit positions resulting in a reduction of audits completed. The FTB indicates that the reduction would affect only low-priority (general purpose and lobbyist) audits in FY 2008-09, but would likely result in 40 uncompleted, high-priority audits of candidates (for office) in FY 2009-10.
- DOJ—Reduce the Division of Law Enforcement. The DOJ indicates that Item 9640 funding makes up only a portion of the funding in this area and would have a minimal impact on operations.

As noted during the discussion on the Fair Political Practices Commission (FPPC), the Political Reform Act of 1974 instituted programs that play a critical role in ensuring that the public has confidence that the political process in California is free of improper influencing of public officials. Therefore, due to the likelihood that this reduction would result in fewer high-priority audits of political candidates, the Subcommittee may wish to deny this reduction. Staff notes that this action would be consistent with the action taken to deny the Governor's proposed reduction of the FPPC.

Staff Recommendation: DENY the reduction.

VOTE:

8855 Bureau of State Audits

The Bureau of State Audits (BSA) 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, compliance, and performance audits, conducting investigations and other special studies, the State Auditor provides the Legislature, the Governor, 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 begins by funding 161.0 positions (a net increase of 6.0 positions over adjusted current year totals) and expenditures of $17.5 million GF, but then includes a 10-percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $1.6 million (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction / FL: Restoration of GF Reduction. The Governor proposes a $1.6 million unallocated GF reduction to the BSA's budget, but, through a Spring Finance Letter (FL), seeks to restore all $1.6 million.

Staff Comment: This item was discussed at a previous hearing and held open for Senator Dutton, who was absent.

Staff Recommendation: DENY the BBR and TAKE NO ACTION on the FL.

VOTE:

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe

Thursday, May 8, 2008
10:00 a.m. or upon adjournment of session
Room 112

"B" Agenda

Hearing Outcomes

Item Number and Title **Page**

Vote-Only 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.

Item Proposed for Vote-only

Control Section 11.00 EDP / Information Technology Reporting Requirements

This Control Section (CS) generally requires departments to obtain DOF and legislative approval before entering into an IT project contract that would increase the budgeted cost of the project by more than $500,000 or 10 percent, whichever is less.

Staff Comment: This item was previously held open to allow staff to discuss with the Legislative Analyst's Office (LAO), the Department of Finance (DOF), and Office of the Chief Information Officer (OCIO) the potential need for a technical change to tighten up the reporting required under this CS. However, based on subsequent discussions, and because the Subcommittee faces many more pressing issues in the current fiscal crisis, staff has clarified the Legislature's expectations regarding reporting under the CS and all parties will address the need for language revisions at a future date, as needed.

Staff Recommendation: APPROVE AS BUDGETED.

Action: Approved the control section on a 3–0 vote.

Items Proposed for Discussion

0502 Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) establishes and enforces statewide information technology strategic plans, policies, standards, and enterprise architecture, and provides review and oversight of information technology projects for all state departments.

The OCIO was created under Chapter 183, Statutes of 2007 (SB 90—Budget Trailer Bill), and was initially provided $4.7 million special fund, and 23.4 positions in FY 2007-08. The Governor's Budget proposes $6.7 million GF and 32.3 positions for the OCIO in FY 2008-09.

DISCUSSION ITEM:

Pro Rata/SWCAP Cost Recovery Proposal. The Governor's Budget includes $6.7 million GF as an ongoing funding source for the OCIO. The Administration proposes to use a Pro Rata and Statewide Cost Allocation Plan (SWCAP) cost recovery program to support the GF expenditure.

Staff Comment: The OCIO's budget, including the proposal to fund the agency under a Pro Rata/SWCAP Cost Recovery plan, was discussed at a previous hearing. Although prepared to recommend approval of the item, the Chair held the item open as a courtesy to an absent Senator Dutton. Senator Harman, Senator Dutton's successor on the Subcommittee may wish to comment on the proposal.

Staff Recommendation: APPROVE the OCIO budget.

Action: Approved the OCIO budget on a 2–1 vote (Harman).

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments, and also oversees programs for small business advocacy, rural policy, and environmental justice. Additionally, the office has responsibilities pertaining to state planning, California Environmental Quality Act (CEQA) assistance, environmental and federal project review procedures, and volunteerism. The California Volunteers program (CaliforniaVolunteers) administers the federal AmeriCorps and Citizen Corps programs and works to increase the number of Californians involved with service and volunteerism.

The Governor's Budget begins by funding 99.1 positions (including 7.0 new positions) and budget expenditures of $52 million (including $10.6 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $1.0 million.

VOTE-ONLY ITEM:

1. Finance Letter (FL)-1: Technical Correction. The OPR seeks to correct an inadvertent technical error in the preparation of Budget Bill Item 0650-001-0001. The correction requires an increase of $572,000 to the State Planning and Policy Development Program and an offsetting reduction of $572,000 to CaliforniaVolunteers.

Staff Comment: The errors in question were clerical in nature and are related to adjustments for employee compensation and a land use study that were originally reflected in the wrong budget item.

2. Staff Issue: Additional Technical Correction. The OPR indicates that another error was made in building the FY 2008-09 budget for the California Volunteer Matching Network (CVMN). With the CVMN set to expire after two years, at the end of FY 2007-08, the OPR removed $1,140,000 (the original, FY 06-07, level of funding) from Item 0650-001-0001, Program 21, instead of the $1,203,000 provided in the FY 2007-08 base budget. Therefore, the aforementioned item needs to be reduced by an additional $63,000.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS 1 and 2: APPROVE the technical corrections.

Action: Approved both Vote-Only Items on a 3–0 vote.

DISCUSSION ITEMS:

1. BCP-1: Senate Bill 97 Implementation, CEQA Guidelines. The OPR requests $537,000 GF and 4.0 positions on a one-time basis to implement Chapter 185, Statutes of 2007 (SB 97—Dutton), which requires the OPR to prepare and transmit to the Resources Agency by July 1, 2009, draft guidelines (state regulations) for the mitigation of greenhouse gas emissions, as required by CEQA.

Staff Comments: This issue was previously heard on March 26, 2008, and the Chair indicated his inclination to deny the proposal unless the Administration was able to show that the request would directly impact health and safety, and/or generate off-setting savings. The issue was held open as a courtesy to Senator Dutton who was absent at the time. Staff notes that, to date, the Administration has been unable to provide information adequate to address the Chair's concerns.

Staff Recommendation: DENY the request based on the fiscal crisis-criteria outlined by the Chair, and encourage the Administration to carry out the intent of the legislation to the degree possible using existing resources.

Action: Denied the request on a 2–1 vote (Harman).

2. FL-2: Transfer of Governor's Mentoring Partnership to CaliforniaVolunteers. The Governor proposes to transfer the resources currently associated with the Governor's Mentoring Partnership (1.0 position and $107,000 GF) from the Department of Alcohol and Drug Programs to CaliforniaVolunteers.

Staff Comment: Executive Order S-02-08 directed the Governor's Mentoring Partnership (GMP) to be relocated to CaliforniaVolunteers, and this request indicates the merger would "strengthen current efforts to increase the number of Californians who mentor youth, improve efficiencies of programming, and create a single point of contact for all nonprofits seeking volunteers and mentors."

According to the OPR, CaliforniaVolunteers "currently has strong relationships with a number of nonprofit organizations that recruit, train, and match potential mentors." Staff notes that, while additional resources could assist CaliforniaVolunteers in expanding its efforts in this area, the requested transfer of resources is not necessary to make CaliforniaVolunteers the single point of contact for those seeking volunteers and mentors—that is, the "powers and duties" of the GMP are separate and distinct from any staff and resources it has been provided. Rather, the subcommittee may wish to eliminate the 1.0 position proposed for transfer and score $107,000 GF savings, unless the OPR can demonstrate that these resources would generate greater benefits at CaliforniaVolunteers than in providing direct services in some other programmatic capacity.

Staff Recommendation: DENY the request, eliminate the position, and score $107,000 GF savings.

Action: Denied the request on a 3–0 vote. (Deleted the position and scored $107,000 GF savings.)

1760 Department of General Services

The Department of General Services (DGS) provides management review and 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 procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of $1.2 billion (including $7.9 million General Fund) for the department, but then includes a 10-percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $794,000, to be taken from the State Capitol maintenance and repairs program.

VOTE-ONLY ITEMS:

1. FL: Custodial Services for the Department of Technology Services (DTS) and the Department of Motor Vehicles (DMV). The DGS requests 17.0 positions, including one Custodian Supervisor II, to be paid for out of existing resources to provide custodial services to the DTS and DMV at the following locations:

- DTS – 3101 Gold Camp Drive, Rancho Cordova (6.0 custodians)
- DMV – 7775 La Mancha Way, Sacramento (3.0 custodians)
- DMV – 6400 Manila Avenue, El Cerrito; and 501 85th Avenue Oakland (5.0 custodians)
- DMV – 11400 West Washington Blvd., Culver City (2.0 custodians)

Staff Comment: The Department of Finance (DOF) has informed staff that the 10.0 positions requested for DMV should be removed from the proposal because the corresponding DMV request for increased appropriation authority was denied by the DOF. Of the remaining 7.0 positions, 6.0 would supplant services currently contracted out to the Lincoln Training Center (LTC) at the DTS Gold Camp facility. Staff notes that the remaining 1.0 position, a custodian supervisor, does not appear to be justified by the requested 6.0-custodian increase given that the DGS required only 1.0 supervisor for 13.0 new custodians in an earlier BCP approved by the Subcommittee (Ronald Reagan Building).

Staff Recommendation: APPROVE 6.0 custodians for the DTS Gold Camp site and DENY the remaining 11.0 positions.

2. BCP-10: Legal Services Workload. The DGS requests 3.0 positions to address additional workload in the DGS Office of Legal Services (OLS).

Staff Comment: This item was discussed at a previous hearing and held open to provide the DGS with an opportunity to demonstrate the workload supporting the request was more than speculative. However, upon further review, the Administration has elected to withdraw this request due to insufficient workload justification.

Staff Recommendation: DENY the request (in recognition of the fact that the Administration no longer supports this request).

3. FL: General Fund Appropriation to Refund Federal Unallowable Costs. The DGS requests $3,250,000 GF to refund federal unallowable costs related to the Legislature and the Governor's Office that were incurred in FYs 2002-03, 2003-04, and 2004-05.

Staff Comment: Historically, the DGS budget contained a GF appropriation to cover certain general government services and costs, including some related to the Legislature and the Governor's Office. However, DGS' GF appropriation was deleted for FY 2002-03 and was not restored again until FY 2005-06. During the three intervening fiscal years, over $17.0 million in unallowable costs were included in DGS rates billed to client agencies, including $3,250,000 in federal non-reimbursable costs. Although the Department of Finance reached an agreement to allow the state to delay repayment of these funds until September 1, 2008, and pay interest at the state's internal rate of return, if the funds are not repaid at that time, the interest will begin accruing at the current Private Consumer rate, which will likely be higher.

Staff Recommendation: APPROVE the request.

4. Capital Outlay FL: Renovation of H and J Buildings—Patton State Hospital. The DGS requests reappropriation of $2,017,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990), originally approved in FY 2007-08 for working drawings in the renovation of buildings H and J at Patton State Hospital.

Staff Comment: According to the DGS, the preliminary plans were originally anticipated to be completed before June 2008, but the schedule has been extended in order to have the project designed and certified to LEED-NC (Leadership in Energy Efficient Design-New Construction) standards. The DGS now anticipates the preliminary plans will be completed in July 2008 and working drawings in February 2009.

Consistent with the action taken on other seismic safety capital outlay projects, the Subcommittee may approve the requested reappropriation of "old" earthquake safety bond dollars and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified.

Staff Recommendation: APPROVE the request.

5. Capital Outlay FL: Sacramento Public Communications Decentralization. The DGS requests $812,000 (various funds) to proceed with preliminary plans for the relocation of critical public safety communications from the top floor of the Resources Building in Sacramento to more seismically safe and less centralized locations.

Staff Comment: The Legislature approved FY 2007-08 funding for the acquisition phase of this project from a variety of sources including the State Highway Account, Motor Vehicle Account, Fish and Game Preservation Fund, Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990.

The DGS anticipates future project costs of $3.2 million in FY 2009-10 for working drawings, and $22.0 million in FY 2010-11 for construction. These costs would be funded from the same sources identified above, except newly proposed infrastructure bond funds would replace the "old" earthquake safety bond funds. Staff notes that the Subcommittee previously denied (March 26) the Administration's trailer bill language containing the new infrastructure bond proposal. However, consistent with the approval of 2007-08 funding for this project, the Subcommittee may wish to approve this request and reserve the decision on whether to approve the construction phase of this project until a future date when an appropriate fund source has been identified to replace the "old" earthquake safety bond dollars.

Staff Recommendation: APPROVE the request.

Action: Approved the staff recommendation for Vote-Only Items 1, 2, 3, and 5 on a 3-0 vote. The Chair held open Vote-Only Item 4 and requested the DGS to demonstrate that the delay and any associated cost increase resulting from the decision to pursue LEED certification would be offset by cost savings/avoidance.

DISCUSSION ITEMS:

1. BCP-12: Bond Accounting Workload. The DGS requests 5.0 positions and $464,000 (Service Revolving Fund) in FY 2008-09 (and an additional 3.0 positions and $268,000 in FY 2009-10) to address increased bond accounting workload resulting from: (1) historic growth in State Public Works Board (SPWB) revenue bonds, including $7 billion in outstanding bonds, half of which has emerged in the last six years; (2) $7.3 billion in new SPWB revenue bonds authorized under Chapter 7, Statutes of 2007 (AB 900) for the Department of Corrections and Rehabilitation Prison Bed Construction Project; and (3) $64 million in California Energy Commission bonds that were transferred to the DGS effective August 2007.

Staff Comment: During discussion at a previous hearing, the Subcommittee raised concern that the workload associated with AB 900 projects was highly speculative given that no projects have yet been approved. Since that time, the Administration has revised its proposal and withdrawn the request for 2.0 of the positions associated with this workload. Staff notes no concerns with the remainder of the workload.

Staff Recommendation: DENY 2.0 positions (proposed for FY 2009-10) and APPROVE the remainder of the BCP (5.0 positions in FY 2008-09 and 1.0 in FY 2009-10.

Action: Approved the staff recommendation on a 3-0 vote.

2. FL: Office of State Publishing (OSP)—Graphic Design Workload for Department of Public Health (DPH). The DGS requests 2.0 positions, to be supported by redirected resources, to address additional workload resulting from a contract with the California DPH for the development and revision of educational materials and forms.

Staff Comment: The federally funded Women, Infant and Children (WIC) Program has proposed a three-year contract with the OSP for design, video, printing, and distribution services. According to the DGS, the OSP is staffed to handle all of the work required except the graphic design, which would require an additional 2.0 full-time Graphic Designer IIIs. The cost of these Graphic Designers would be fully recovered in reimbursements to OSP through the contract; however, if the Subcommittee decides to approve the requested permanent positions then it should require the department to verify the need (via reporting) for the positions to remain permanent at the end of three years.

Staff Recommendation: APPROVE the request with supplemental reporting language to be developed by staff (requiring the OSP to inform the Legislature of the actual workload and the need for ongoing position authority at the end of the proposed three-year contract).

Action: Approved the staff recommendation on a 3-0 vote. [Staff notes that the intent would be to adopt SRL that conforms to language also adopted in the Assembly.]

3. FL: Office of Administrative Hearings (OAH)—Unanticipated Workload in Special Education Resolution Program. The DGS requests 3.5 positions and $357,000 (special fund) to address new and unanticipated special education resolution program workload.

Staff Comment: Federal special education law requires that states receiving federal special education funding maintain a due process system to resolve disputes between parents and school officials regarding compliance with federal laws governing the education of students with disabilities receiving special education services. Federal law prohibits the California Department of Education (CDE) from acting as the administrative hearing agency for such disputes, in order to avoid conflict of interest.

Prior to 2004, California law required the CDE to contract with a single nonprofit organization or entity to provide due process services. This statute reflected the interest in maintaining some impartiality or independence for this function. Beginning in 1989, the CDE contracted with the McGeorge School of Law to serve as the administrative hearings agency for these disputes. However, the California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment (CASE) launched a successful challenge to the McGeorge contract and budget trailer bill language was approved as part of the Budget Act of 2005 to allow the CDE to contract with a state agency to perform the work. In a subsequent open bid process, the OAH came in 30 percent lower than McGeorge and won a three-year, $30.4 million contract to provide dispute services. That year, the education omnibus budget trailer bill, SB 63, codified various data requirements for the new due process contract in order to assure the continuation of data previously provided by McGeorge.

According to the DGS, this request for 3.5 additional positions is necessary because, with the OAH's original three-year contract set to expire, the new interagency agreement (IA) with the CDE would place expanded mandates upon the OAH, including additional reporting requirements. However, staff notes that most of the requirements contained in the new IA, and identified by the OAH as "new" workload, appear to be minor variations on existing reporting. Many are merely more explicit descriptions of data that the OAH is already required to track, or would, of necessity, already be tracking in the normal course of business. Although staff notes that some proposed requirements may impose new work (for example, the OAH would have some enhanced training responsibilities and need to keep the CDE apprised on these activities), it is unclear that the OAH needs additional resources to meet these requirements. The OAH was originally staffed based upon an estimated annual workload of 3,410 cases; however, given that only 2,747 cases were filed in FY 2006-07, and only 3,000 are expected to be filed in FYs 2007-08 and 2008-09, staff believes that the OAH ought to be able to meet all expectations under the proposed IA within existing resources. Staff additionally notes that the CDE has not been provided additional funding authority to increase the amount of the contract.

Staff Recommendation: DENY the request.

Action: Denied the request on a 3-0 vote.

4. Capital Outlay FL: Library & Courts Building Renovation—Cost Increase (with Provision Language). The DGS requests a $16.0 million (special fund) supplemental construction appropriation for renovation of the Library & Courts Building in Sacramento.

Staff Comment: At an earlier hearing, the Subcommittee approved a reappropriation of construction funds that was made necessary by delays to this project. The delays arose when the original plan to phase construction around continuous occupancy of the Library & Courts Building had to be abandoned because it was determined that the safety of the occupants and historical documents would have been substantially compromised. This request reflects a 32.5 percent increase in project construction costs stemming from the delay and other factors. The DGS attributes the cost increases to:

1) Availability of more detailed drawings on which to base estimates;
2) Delay of construction;
3) Rapid escalation in costs for raw materials and increased labor rates;
4) Program efficiency enhancements.

While construction project delays are not uncommon, and increased costs nearly always accompany such delays, staff notes that some of the increased costs contained in this request are the result of other decisions made by the DGS. For example, $2.7 million of the increase reflects a change in the scope of the project to make tenant improvements in the Library & Courts Building so that Courts' staff currently located at the Library & Courts II Annex (the Annex), at 900 N Street, may be permanently relocated across the street at the Library & Courts Building. Currently, Library and Courts staff are each divided between the Annex, and the Library & Courts Building; however, with the need to temporarily relocate staff, the Administration determined that operational efficiencies could be achieved by permanently moving all Courts staff into the Library & Courts Building once renovation was complete. Staff notes that this request does not contain any quantitative analysis to support the Administration's claims of increased efficiencies. However, in supplemental materials forwarded to staff, the Administration claims the following benefits would accrue to the state as a result of the requested move and associated tenant improvements:

- **Storage** – Approximately $11,000 in annual off-site file-storage costs avoided.
- **Security** – Approximately $56,000 in annual cost avoidance associated with requiring one less Court security staff (currently assigned to monitoring the Annex).
- **Records & Documents** – Approximately 812 annual hours of avoided "travel time" between the two buildings (currently required in order to deliver various records and documents, such as urgent writs). Staff notes that this estimate equates to nearly 0.5 Personnel Years, but the Administration does not recognize any associated cost savings. Rather, the Administration wishes to view this as an opportunity to achieve increased service capacity (through improved efficiency), while holding existing programmatic expenditure levels constant.
- **Chamber Space / Additional "Judge" Costs Avoided** – Approximately $669,000 in annual costs avoided in out years due to the ability to house a pro tem judge in additional chamber space, thus avoiding the need to hire a 12th Appeals Court justice and related staff (including 3.0 staff attorneys and judicial assistant) to address an increasing caseload.

Staff notes that, while the above estimates appear analytically reasonable, the Administration has indicated no willingness to "score" the estimated cost savings by reducing the Courts' budget. Therefore, the Subcommittee must determine whether the additional Budget Year cost is justified by improved program performance alone, as opposed to off-setting fiscal benefits (that would be reflected in the state's "bottom line").

Additionally, staff notes procedural concerns that the DGS has proposed such significant changes to this project after working drawings were 75-percent complete. While the Subcommittee may hear testimony that adequately addresses the above cost concerns, it may wish to consider whether approval of the expanded scope of this project would set a bad precedent, and, instead, choose to deny a portion of the requested funding for this reason alone.

Staff Recommendation: APPROVE $13.3 million, but DENY $2.7 million unless the Administration is willing to "score" consolidation savings by reducing the Courts budget.

Action: Approved the request in its entirety, on a 3-0 vote, based on the Courts' commitment to find off-setting savings (of approximately $120,000 GF per year) when the construction is complete and the lease payments begin.

5. Informational Item: Shower Repairs at the Veterans Home of California (VHC)—Chula Vista. Multiple shower benches at VHC—Chula Vista have failed over the past several years and the Administration recently provided the Legislature with notification for the approval of $2.6 million (GF) in deficiency funding to renovate 81 showers at the facility.

Staff Comments: On September 12, 2007, the Department of Finance (DOF) submitted to the Legislature a "Notification of Receipt of Deficiency Funding Requests from the [California] Department of Veterans Affairs [CDVA]" that included $1.0 million to remediate "issues resulting from improperly constructed showers" at Chula Vista. Although the notification did not provide many additional details on the nature of the problem, the Legislature learned from CDVA and DOF staff that in June 2007 a shower bench had failed (come out of the wall) while in use by a resident. As the Assembly Committee on Veterans Affairs held a November hearing on the matter and more information continued to emerge throughout the fall and winter, the Legislature learned that this was not the first shower bench failure at Chula Vista. In fact, the DGS—who oversaw construction at the home—had returned to Chula Vista in 2002, shortly after the home opened, to correct improper installation of shower benches in the Skilled Nursing Facility (SNF) unit, only for a shower bench to come loose from the wall in SNF Unit 300 in December 2005. In this latter instance, the CDVA identified the problem as an "integral defect"—no moisture barrier and improper tile substrate (allowing water to infiltrate the tile and reach the wooden substructure)—and the department subsequently began repairs to all showers in the unit. However, the CDVA did not test shower walls in other units and therefore did not detect a larger problem until another shower bench (in a different building) failed in 2007.

As the need for the CDVA to rapidly repair previous shower problems erased the forensic evidence necessary for the DGS to diagnose the root cause of the shower bench failures, the DGS recently undertook destruction of multiple showers to ascertain the root cause of the failures. The following statement from the DGS documents the department's most recent efforts and near-term plan for addressing the shower problems at Chula Vista:

> *The DGS is working with the CDVA to take action to address any issues associated with the construction deficiencies and in particular the water intrusion into the wall cavities in the shower rooms throughout the Chula Vista campus. In March 2008, the DGS proceeded with a forensic investigation of the water intrusion into twelve showers to assess the cause of the water intrusion. The investigation started on March 3, 2008 and concluded on March 21, 2008. During the initial investigation samples were taken of cultures inside the wall cavity and air samples were also taken inside the wall cavity and outside in the occupied space. All of the rooms were identified with mold cultures and ten of these twelve showers were identified with water intrusion in the wall cavity.*
>
> *The identified causes of the water intrusion were the following:*
>
> - *The shower waterproofing pan is minimal (one layer of hot mopped felt) and the felt does not continue up the walls of the shower.*
> - *The escutcheon plate around the shower valves tend to leak.*
> - *The electrical box in the showers for the nurse call system in some showers is not water tight.*
>
> *The estimated cost to complete the shower repairs is $2,610,000. The actual cost will be known when the bids are received which is scheduled for early June. The construction phase of the shower repairs is scheduled to start in July and is estimated to be complete in 20 months.*

DGS is in the process of conducting a further investigation to determine the cause and the responsible party associated with the construction deficiencies at the Chula Vista Home. Since CDVA occupied the Chula Vista Home, staff determined immediate repair was necessary for the health and safety concerns of the occupants. As a result, this did not allow the general contractor an opportunity to review and determine whether they had any responsibility in correcting the defects. The State may have minimized its position related to the responsibility associated with the construction deficiencies. However, the State did forward on March 7, 2008 a notification letter to the contractor and its sureties of the construction defects found at the Chula Vista Home. Several of the sureties and the contractor's representative that finished the project have contacted the State for further information. It is anticipated that the consultant will start further investigation the first week in May with completion data by mid June. Upon completion of the investigation, DGS will provide an updated report on the findings which will identify the ultimate cause and responsibility for the known deficiencies.

Staff notes that the Legislature has raised no objections to funding the requested deficiency, because ensuring the health and safety of veterans home residents is the state's most immediate concern. However, as has been discussed in CDVA budget hearings, the Legislature also wants to make certain that the following questions are ultimately answered to its satisfaction:

(1) **What is the problem with the Chula Vista showers?** Did the shower bench failures result from inadequate/defective design or failure to properly execute an adequate/effective design? Why do we have water intrusion in shower walls at a relatively new facility?

(2) **How did the state building design and construction process break down such that the shower "problem" was allowed to develop?** If the design was adequate but carried out improperly by the contractor, was the decision to deviate from the design made and signed off on by the DGS, or did the contractor make a unilateral decision? If the former, who made the decision and why? If the latter, how did the DGS or the CDVA fail to catch the issue before the state took over the building? Does the contractor bear fiscal responsibility for any or all of the $2.6 million in projected shower repair costs?

(3) **What is the DGS doing to ensure that the "problem" identified above is corrected relative to future projects?** Although the individuals originally assigned to the Chula Vista project may no longer be with the DGS, what steps has the department taken to develop policies and procedures to safeguard against a recurrence of similar construction problems?

Given that the DGS is still investigating this matter, the Subcommittee may wish to request the department to continue to update staff on future developments, including the results of the continuing investigation, scheduled for completion in mid-June 2008.

Action: No action to be taken, but in response to the Chair's request, the DGS committed to continue to provide timely information to the Legislature on this matter, including a report anticipated to be completed by June 13, 2008.

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the 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 DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 805.5 positions (a net increase of 37.7 positions relative to current year adjusted totals) and expenditures of $279.6 million (special fund).

VOTE-ONLY ITEM:

BCP-6: Security Workload. The DTS requests 4.0 positions and $415,000 (DTS Revolving Fund) to address serious security deficiencies in the current DTS systems and architecture.

Staff Comment: As discussed at a previous hearing, this request contained no quantified workload justification when it was transmitted to the Legislature. Due to the sensitive nature of information technology security, the Subcommittee gave the department the benefit of the doubt and held the item open rather than denying it outright.

Based upon additional information provided by the DTS, staff no longer has concerns with this proposal. According to the DTS, these positions would be used to address the areas of asset protection and vulnerability management.

Staff Recommendation: APPROVE as budgeted.

Action: Approved the request on a 2-1 vote (Harman).

DISCUSSION ITEM:

FL: New Central California Data Center—Request for Long-Term Lease with Purchase Option Authority. The DTS requests provisional language to be added to Item 1955-001-9730 to authorize the DGS to enter into a long-term lease with purchase option for a new Central California data center.

Staff Comment: As discussed at a previous hearing, the DTS currently operates two main data centers in the Sacramento area—Gold Camp and the Cannery. The DTS proposes to replace the data center capacity currently located at the Cannery site and provides all of the following as justification:

- Given their close proximity to one another, the DTS is concerned that both data centers could be compromised in the event of a disaster in the Sacramento area. This represents a threat to DTS operational recovery.

- Based on a 2006 analysis performed by an outside evaluator, several risks are inherent to the Cannery site, including the following: (1) the site is located in the 100-year floodplain and there is no practical way to mitigate the risk; and (2) the site has security vulnerabilities because it is located adjacent to train tracks and busy streets with no perimeter boundary or fencing.

- According to the same 2006 analysis referenced above, the Cannery facility has infrastructure problems, such as inadequate electrical and cooling systems, which would require in the range of $16.0 million to $23.0 million to address.

- The Cannery lease is due to expire in May 2011, and the landlord has indicated a desire to convert the property to residential use rather than renew the state lease.

Based on the above, the DTS began working with the DGS to look for an alternative data center site outside the Sacramento area. The DTS now indicates that a potential site has been identified in Central California and the department is seeking authorization to enter into a lease-purchase agreement for a build-to-suit facility. According to the DGS, based on an occupancy date of 2011, the total project development costs would run approximately $117.0 million, with a 25-year term and private financing of 5.57 percent.

Because the cost of this request would ultimately be borne by DTS customers, the Subcommittee may wish to hold this item open until the May Revise hearing, by which time the Administration will have had time to respond to the following clarifying questions recently raised by staff:

- What is the likely rate impact that would result from the current DGS cost estimate? Will the Administration agree to budget bill language requiring an updated rate impact estimate to be provided with the 30-day notice of intent to enter into the lease agreement?
- What is the basis for the DGS' current rent estimate? (For example, what geographic area was used as the basis for the calculations? What other key assumptions were made?)

Staff Recommendation: HOLD OPEN.

Action: Held open to allow more time for staff consideration.

8640 Political Reform Act of 1974

Statute appropriates various amounts to the Secretary of State, the Franchise Tax Board, and the Department of Justice to carry out their duties under the Political Reform Act of 1974.

The Governor’s Budget begins by providing $2.8 million GF for this item, but then includes a 10 percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of $275,000 (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction. The Governor proposes a $275,000 unallocated GF reduction to the Political Reform Act of 1974 item.

Staff Comment: The Governor’s proposed reduction would be shared among the three departments funded by this item as follows:

- Secretary of State (SOS) to be reduced by $79,000 (from $790,000 to $711,000).
- Franchise Tax Board (FTB) to be reduced by $175,000 (from $1,747,000 to $1,572,000).
- Department of Justice (DOJ) to be reduced by $21,000 (from $216,000 to $195,000—with the reduction taken in program 50 - law enforcement).

This item was held open at a previous hearing due to insufficient information from the Administration. However, based on the subsequent detail provided, staff has no significant concerns with the following anticipated impacts of the reduction:

- SOS—Eliminate publication of a hard copy Lobbyist Directory. The directory would be available on-line and on a compact disc (available for $10).
- FTB—Eliminate 2.0 audit positions resulting in a reduction of audits completed. The FTB indicates that the reduction would affect only low-priority (general purpose and lobbyist) audits in FY 2008-09, but would likely result in 40 uncompleted, high-priority audits of candidates (for office) in FY 2009-10.
- DOJ—Reduce the Division of Law Enforcement. The DOJ indicates that Item 9640 funding makes up only a portion of the funding in this area and would have a minimal impact on operations.

As noted during the discussion on the Fair Political Practices Commission (FPPC), the Political Reform Act of 1974 instituted programs that play a critical role in ensuring that the public has confidence that the political process in California is free of improper influencing of public officials. Therefore, due to the likelihood that this reduction would result in fewer high-priority audits of political candidates, the Subcommittee may wish to deny this reduction. Staff notes that this action would be consistent with the action taken to deny the Governor’s proposed reduction of the FPPC.

Staff Recommendation: DENY the reduction.

Action: Denied the reduction on a 2-1 vote (Harman).

8855 Bureau of State Audits

The Bureau of State Audits (BSA) 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, compliance, and performance audits, conducting investigations and other special studies, the State Auditor provides the Legislature, the Governor, 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 begins by funding 161.0 positions (a net increase of 6.0 positions over adjusted current year totals) and expenditures of $17.5 million GF, but then includes a 10-percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $1.6 million (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Unallocated GF Reduction / FL: Restoration of GF Reduction. The Governor proposes a $1.6 million unallocated GF reduction to the BSA's budget, but, through a Spring Finance Letter (FL), seeks to restore all $1.6 million.

Staff Comment: This item was discussed at a previous hearing and held open for Senator Dutton, who was absent.

Staff Recommendation: DENY the BBR and TAKE NO ACTION on the FL.

Action: Denied the reduction on 2-1 vote (Harman).

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom Harman
Christine Kehoe

Hearing Outcomes

Note: Senate Harman was absent during the votes for items in this agenda. All 2 – 0 votes reflect the votes of Senator Machado and Senator Kehoe.

Agenda Part "C"

Thursday, May 8, 2008
10:00 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

Department Budgets Proposed for Vote Only

1110 & 1111 Regulatory Boards & Bureaus within the Department of Consumer Affairs that have Sunset Issues

Boards and Bureaus with sunset issues were left off the March 24 agenda with the intent that they would be heard at a subsequent hearing after related policy bills were enrolled. To date none of these policy bills are enrolled. The sunsetting entities are the Board of Barbering and Cosmetology, the Dental Board of California, the Speech-Language Pathology and Audiology Board, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, and the Bureau for Private Postsecondary Education. All of these Boards and Bureaus are fully supported by licensee fees and penalties – no General Fund revenues are received.

The Administration submitted an April Finance Letter to budget the four expiring Boards as Bureaus (<u>Board of Barbering and Cosmetology, the Dental Board of California, the Speech-Language Pathology and Audiology Board, the Board of Vocational Nursing and Psychiatric Technicians</u>), which is consistent with current law that moves the functions over to Bureaus upon sunset of the Boards. These Boards sunset on July 1, 2008. If policy bills are approved to "restore" the Boards, the earliest date of restoration would be January 1, 2009, because the Constitution prohibits urgency bills for this purpose. If the Boards are restored through chaptered legislation, the Administration indicates an executive-order "budget revision" would be issued to appropriately adjust the Budget consistent with the policy legislation.

The <u>Bureau for Private Postsecondary Education</u> was created by SB 45 (Ch 635, St of 2007), as the replacement entity for the Board of Private Postsecondary and Vocational Education, which sunset on July 1, 2007. However, SB 45 states that the Bureau shall not commence operations unless and until a statute is enacted that creates a new California Private Postsecondary Education Act that provides the functions and responsibilities of the Bureau. No legislation has been enrolled to date to create the new California Private Postsecondary Education Act. The Governor's Budget includes placeholder funding and staffing for the Bureau and budget bill language that prohibits expenditure of funds if implementing legislation is not approved. On April 22, Assembly Subcommittee #4 reduced the Bureau budget to $1,000 to put this issue into Conference Committee, with the intent to provide additional time for the policy issues to be resolved.

No concerns have been raised to Staff concerning budget changes for these entities. The following table indicates the proposed budgets and any associated Budget Change Proposals for these five Boards and Bureaus:

	Positions		Expenditures	
	2007-08	2008-09	2007-08	2008-09
Boards and Commissions - Organization Code 1110				
Board of Barbering and Cosmetology	86.4	94.9	$17,653	$18,726
	Augmentation of $662,000 and 9.0 new positions to conduct statutorily-mandated inspections of the licensee population. (BCP 1110-05)			
Dental Board of California	63.5	64.4	$12,901	$12,787
	Shift of $52,000 from operating expenses to personal services (no net expenditure change) and add 1.0 accounting tech position for increased workload. (BCP 1110-02L)			
Speech-Language Pathology and Audiology Board	5.0	5.0	$926	$814
	Shift of $14,000 in operating expenses from interagency contract to temporary help (no net expenditure change) to move the cashiering duties in-house. (BCP 1110-16)			
Board of Vocational Nursing and Psychiatric Techs	48.5	48.5	$8,542	$9,047
	No budget changes proposals submitted.			
Bureaus, Programs, Divisions - Organization Code 1111				
Bureau for Private and Postsecondary Education	14.1	69.4	$3,629	$11,309
	Budgeted amount is "placeholder" pending implementing policy legislation. Note, 2007-08 resources are federal funds used to support a veteran's program.			

Staff Recommendations: Approve these budgets, including the April Finance Letter.

Action: Approved Staff Recommendation on a 2 – 0 vote.

Department Budgets Proposed for Discussion

8500 Board of Chiropractic Examiners

The Board of Chiropractic Examiners (Board) 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.

The January Governor's Budget proposed expenditures of $3.2 million (no General Fund) and 14.9 positions for the Board – an increase of $1.2 million and 7.4 positions. However, the 2007 Budget Act cut the Board's budget by about half (about $1.5 million). When the Legislature cut the Board's funding last year, it subsequently added an appropriation of the same amount to SB 801, a policy bill, which also made reforms at the Board. SB 801 was vetoed by the Governor. The Administration requested and received deficiency funding of $383,000 in 2007-08 for one-time legal costs. Assembly Bill 450 (Ch 12, St of 2008) was signed by the Governor on April 29 and restores the $1.5 million to the Board's 2007-08 budget and makes more modest reforms than those included in SB 801.

Issues for Discussion:

1. **BSA Audit of the Board.** The Bureau of State Audits (BSA) audited the Board and presented its findings in a March 2008 report (see the BSA summary of the audit in Attachment I at the end of this agenda). This audit raised some significant problems at the Board, many of which were known and discussed last year when SB 801 was deliberated. Of the highest concern, the audit found the Board took: *unreasonable amounts of time to refer complaint cases, including priority cases – those alleging sexual misconduct, gross negligence or incompetence, the use of drugs or alcohol when performing the duties of chiropractic, and insurance fraud – to the Office of the Attorney General for potential disciplinary actions against the licensees.*

   Staff Comment: The Board generally concurred with the BSA findings and indicated that while the audit examined the period prior to March 2007, significant improvements have been made since then.

   Assembly Reporting Language: The Assembly added budget bill language to require the Board to report to the Legislature by next March 1, on its progress in addressing the BSA recommendations, and on its performance data for complaints processed, cases investigated, legal actions filed, and timelines for disposition of complaints.

   Staff Recommendation: Conform to the Assembly reporting language.

Action: Approved Staff Recommendation on a 2 – 0 vote.

2. **Board's Budget for 2008-09 (Governor's Budget & April Finance Letter**). As indicated on the prior page, the January Governor's Budget fully funds the "base" Board activities at $3.2 million (special fund) and 14.9 positions. The April Finance Letter requests $503,000 (special fund) and 4.0 new positions to provide an in-house investigation unit. In 2009-10 and ongoing, the funding for this purpose would increase to $535,000 and the investigation unit would grow to 6 staff. This increase would allow the Board to proactively investigate violations of the Chiropractic Act, conduct onsite monitoring of probationers, and engage in random field inspections of licensees.

Detail on Investigation Unit Request: The Board currently contracts out investigative services to four private firms. The budget request indicates that the Board of Chiropractic Examiners is the only healing arts board that out-sources its regulatory investigations. Investigative methods, skills, and abilities vary significantly between each contractor, and the Board indicates that this leads to rework and unacceptable delays in complaint investigations. Aside from bringing investigative work in-house, the Board proposes to expand investigative work in several areas:

- Pre-conviction investigations: Currently, the Board receives arrest and court records, but waits until a conviction before taking enforcement action. The Board proposes to initiate investigations at arrest, which may result in an administrative hearing and sanction prior to the resolution of the criminal matter.
- Civil judgment investigations: Currently, the Board does not investigate a civil judgment against a chiropractor unless the victim submits a formal complaint. The Board proposes to initiate investigations of civil cases in which a chiropractor must pay over $3,000, regardless of whether the victim files a complaint.
- Random field inspections: Currently, the Board's inspections are primarily complaint driven. The Board proposes to perform random inspections of approximately 10 percent of total licensees each year.
- Probation monitoring inspections: Currently, the Board has about 150 chiropractors on probation at any given time and requires probationers to submit quarterly reports and perform other tasks. The Board proposes to begin investigative visits to confirm compliance.

Staff Comments: The additional staff should increase consumer protection, which is the primary mission of the Board. The cost of the new positions would be funded from licensing fees and penalties paid by chiropractors.

Staff Recommendation: Approve the request.

Action: Approved request on a 2 – 0 vote.

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 (CAAM), 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 $24.5 million ($18.7 million General Fund) and 180.3 positions for the Science Center – a total increase of $1.1 million (and a General Fund increase of $1.1 million) and no net change in positions. This change is primarily due to two factors: (1) the year-two ramp-up of $2.6 million for operations of the new Phase II Science Center Facility (pursuant to a multi-year Budget Change Proposal (BCP) adopted last year); and (2) an ongoing budget cut of $1.7 million to help close the State's General Fund deficit which would result in cuts to both the Science Center facility and CAAM.

At the March 24 hearing, the Subcommittee approved the requested $1.5 million budget reduction for the Science Center and the requested $249,000 budget reduction for CAAM. The issues contained herein for the Science Center are those left open at the March 24 Subcommittee hearing and April Finance Letters.

(see next page for issues).

Discussion / Vote Issues

1. **CAAM Facility Renovation and Expansion Project – Working Drawings (BCP).** The Administration requests an augmentation of $2.2 million (General Fund) in 2008-09 to complete working drawings for the renovating and expansion of the California African American Museum (CAAM) facility. The Administration requested and the Legislature approved $2.3 million for preliminary plans in 2007-08. The total General Fund cost inclusive of construction is estimated at $43.6 million, which is 67 percent of the total project cost of $65.4 million – the CAAM Friends Foundation (Foundation) would contribute the remaining $21.8 million (33 percent).

   Administration Response: This issue was held open at the March 24 hearing and CAAM was asked to provide additional detail on their fundraising plans for the privately funded portion of this project. As of April 25, CAAM indicates the Foundation has raised $639,000, or 55 percent of the Foundation's share of $1.2 million for the preliminary plans. The preliminary plans are expected to be complete by December 2008, and the Foundation will have to raise another $523,000 in the interim to fund its share of the cost. The Foundation's share of the working drawings is $1.1 million. CAAM hopes to initiate work on the working drawings in January 2009. CAAM believes the Foundation will be able to meet their funding goals on a timeline consistent with the budget request.

   Staff Comments: The Subcommittee has rejected several General Fund capital outlay requests this year. If the working drawing budget request is rejected, and the CAAM timelines holds, the project would be delayed 6 months or more (assuming funding is alternatively approved next year for the 2009-10 budget). Staff notes that completion of the preliminary plans could be delayed if the Foundation is unable to raise the additional $523,000 needed by December. Additionally, any delay in raising the $1.1 million for the working drawings could delay that project phase. The Assembly approved this budget request at their March 11 Subcommittee #4 hearing.

   Staff Recommendation: Reject this request.

   Action: Rejected request on a 2 – 0 vote.

   <u>CAAM requested the following comments be added</u>: CAAM notes that private fundraising is intricately linked to the timing of the State's advance pledge of its share of funding for the Working Drawings project. CAAM indicates that if the project is not included in the FY08-09 budget, continued fundraising for the Working Drawing phase cannot resume until July 2009 after State funds have been included in the adopted FY 2009-10 budget and actual work on that phase will be delayed until January 2010.

2. **New Coliseum Lease (April Finance Letter).** The Administration requests an augmentation of $365,000 (Exposition Park Improvement Fund) and an increase in reimbursement authority of $158,000 (reimbursements from the city and county of Los Angeles) to conform the budget to a new lease agreement for the Los Angeles Coliseum. Certain maintenance expenditures previously paid by the Coliseum Commission will now be directly paid by the Office of Park Management (within the Science Center). This increase in expenditures is offset by an increase in annual revenue to the Exposition Park Improvement Fund from the new Coliseum lease. The new lease with the City of Los Angeles has a 49 year term and increases the annual lease payment from $80,000 to $1.1 million.

   Background / Detail: In addition to the cost shifts, the proposal includes a net increase in maintenance activities of $115,000 to begin some critical security and safety improvements. These include: begin repairs/replacement of security cameras and recorders ($32,500); begin work to upgrade and relocate 24/7 emergency dispatch ($25,000); begin to make critical repairs to security patrol vehicles ($25,000); and begin repair of public restrooms ($32,500). An expenditure increase of $98,000 is also requested because the new maintenance vendor contract is $439,000, versus the old contract of $341,000. What is not addressed in the Finance Letter is the Administration's plans for the $655,000 revenue gain from the new contract that is not requested for expenditure in 2008-09.

   Staff Comment: The new Coliseum contract will provide an ongoing revenue benefit to the Science Center. The funds are deposited in the Exposition Park Improvement Fund, where statute directs expenditures to improvements to Exposition Park including, but not limited to, maintenance of existing parking and museum facilities. Since the General Fund budgeted for 2008-09 does include improvements to Exposition Park (for example $1.9 million is budgeted for external consulting related to opening the new Phase II Science Center facility), the unspent $655,000 could be directed to General Fund relief on a one-time basis in 2008-09. Technically, General Fund expenditures would fall by $655,000 to be backfilled with the same amount from the special fund.

   Staff Recommendation: Approve the Finance Letter, but on a one-time basis, use the additional $655,000 in new special fund revenue to offset a new General Fund cut of the same amount.

   Action: Approved Staff Recommendation on a 2 – 0 vote.

1730 Franchise Tax Board

The FTB's budget was heard on the April 7 and the following issue was left open:

Issue proposed for Discussion / Vote:

1. **Tax Gap – Mandatory E-Pay for PIT Payments over $20,000 (Part of BCP # 14)** The Governor requests 3 positions and $161,000 (General Fund) to implement a mandatory electronic payment of estimated tax installments that exceed $20,000 or tax liabilities of $80,000 or more. This change would reduce deposit delays and increase the interest earnings of the State. The FTB indicates that 1.8 percent of taxpayers would be affected, but those taxpayers pay over 50 percent of PIT revenues. New Jersey, Massachusetts, and Illinois currently have mandatory electronic payment requirements. The General Fund revenue gain would be $5.0 million in 2008-09 and $10.0 million in 2009-10 and ongoing. Statutory change would be required to mandate E-Pay, but the Administration did not propose trailer bill language – instead indicating the amendments could be made through a policy bill. The Subcommittee held this issue open at the April 7 hearing and requested that the FTB provide more information on taxpayer payment options and draft statutory language.

   Administration Response: The FTB did provide the additional information requested by the Subcommittee. Taxpayers can make payment via the internet, through E-File, or by phone with a credit card (a convenience fee would apply). FTB indicates AB 2755 (set for hearing in the Assembly Appropriations Committee on May 7) contains the statutory change the Administration supports. One issue of note is that AB 2755 includes a 10 percent penalty for those that do not E-Pay. The FTB indicates that a phone-in payment system could be implemented with either a live operator (about $25,000 to $50,000 onetime) or an automated system (about $50,000 to $100,000 onetime). The disadvantage of the live operator is decreased security from an expanded number of individuals having access to bank routing numbers, and the disadvantage of the automated system is the time it would take to modify the information technology phone application.

   Staff Comment: A 1.0 percent penalty level (more analogous to a credit card convenience fee) might be sufficient. It may be appropriate to adopt placeholder trailer bill language to make statutory change within the budget process, since the related General Fund revenue of $5 million is scored in the budget.

   Staff Recommendation: Approve the request, and additionally adopt *placeholder* trailer bill language that (1) sets the penalty for not complying with E-Pay at 1 percent and (2) adds an automated phone payment requirement (with the costs to be absorbed). (So the revenue gain is not lost during phone payment implementation, do not link implementation of E-Pay to implementation of automated phone pay.)

   Action: Approved Staff Recommendation on a 2 – 0 vote.

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 $6.1 million (primarily General Fund) and 44.0 positions for the Board – a decrease of $166,000 (General Fund) and no net change in positions.

Issues proposed for Discussion / Vote:

1. **BCPs and Budget Reductions (BCP #1 & 3, Budget Reductions).** The BCPs requests $200,000 (General Fund) for 3.0 new positions (2.0 legal support and one human resources support) and then the budget reduction plan saves $200,000 by not adding these positions. The budget reduction plan also saves an additional $310,000 by: (1) eliminating fact-finding contracts ($85,000 and trailer bill language is required); (2) by closing the Oakland Regional Office ($140,000); and (3) by reducing travel, library purchases, and other operating expenses ($85,000).

   Background / Detail: Since there is no net change in staffing, the Subcommittee may want to focus on the elimination of fact-finding funding and the closure of a PERB regional office:

   - Eliminate State Payments to Factfinders: Factfinders are contracted to assist in closing factual disputes between public sector employers and employees during labor negotiations. Current statute requires PERB to fund factfinder contracts, and PERB currently is budgeted at $85,000 for this purpose. The Administration proposes to amend statute to eliminate the state obligation and instead specify that the cost be equally split between the two negotiating parties. The current daily payment to factfinders is $800.
   - Close Oakland Regional Office: The Administration proposes to save $140,000 by closing the Oakland Regional Office on January 1, 2009 (full year savings is identified at $280,000). The existing eight staff in Oakland would either relocate or telecommute to Sacramento. Over 25 percent of informal settlement conferences (or about 100 per year) take place in the Oakland office. There are approximately 1,233 public-sector employers and their employees that are serviced by the Oakland Office.

   Staff Comment: Due to the large proportion of workload handled by the Oakland Office, it is unclear that closure of the office would be a long-term efficiency for the State. The Assembly Subcommittee rejected the closure of the Oakland Office.

   Staff Recommendation: Approve the requested budget, and budget reductions, except reject the closure of the Oakland Office (restore $140,000 of the reduction).

Action: Approved Staff Recommendation on a 2 – 0 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 January Governor's Budget proposes total expenditures of $56.1 million (no General Fund) and 459.2 positions, – a decrease of $1.5 million and no change in positions. This change includes two large adjustments: (1) the Department received a one-time Office of Traffic Safety grant of $1.5 million in 2007-08 that is not included in 2008-09, and (2) the budget reduces local grants from $3.0 million to $2.0 million. Additionally, the Administration proposes a fee increase of 3.28 percent tied to the Consumer Price Index.

Issues proposed for Discussion / Vote:

1. **Corrections to the Governor's Budget Display (Informational).** At the March 24 hearing, ABC indicated that there were errors in the fund condition statement included in the Governor's Budget. The Department of Finance also indicated irregularities in ABC's processing and disbursement of prior year's federal grants. The Department of Finance has asked the Office of State Audits and Evaluations (OSAE) to perform an audit of ABC's administration of its grant and local assistance programs.

   Administration Response: The Subcommittee held all ABC budget requests open pending correction of any errors in the Governor's Budget. The Department has since provided staff an amended fund condition statement that indicates that the balance of the Alcoholic Beverage Control Fund is overstated by $819,000 in 2006-07, and overstated by $219,000 in 2007-08. The Department of Finance indicates that the reason for the discrepancy is that ABC inaccurately reported expenditure in a past year. Finance indicates it will add this issue to the aforementioned OSAE review of ABC accounting.

   Staff Comment: Another issue discussed at the prior hearing was whether the reported budget savings of $1.8 million in 2006-07 was attributable to vacancies or expenditure delays for an information technology (IT) project. The department reports that $1.5 million was attributable to the IT project and the remainder of $300,000 was other savings.

   Staff Recommendation: Direct staff to review the OSAE audit when complete and report the results to the Subcommittee next year as warranted.

   Action: Directed staff to review OSAE audit and bring this issue back to the Subcommittee next year as warranted.

2. **Licensing and Compliance System Information Technology (IT) Project (Finance Letter #1).** The Finance Letter would revert $1.1 million in the current year and augment the budget year by $1.1 million (for zero net change in expenditures over the two years). The Licensing and Compliance System IT project was originally approved by the Legislature in 2004-05, and will update the ABC's existing automated process for accepting and processing liquor license applications. The project was delayed as a result of civil litigation filed by a vendor after the initial bid process.

   Staff Comment: With this request, a total of $2.3 million would be budgeted for the IT project in 2008-09; however, the Special Project Report (SPR) indicates that only $1.1 million is planned for project expenditures. Accordingly, the Subcommittee may want to conform the budget to the SPR by approving the April FL, but reducing the budget by $1.211 million to match the SPR.

   Staff Recommendation: Approve the request, but also reduce the ABC budget by $1.211 million to conform to the SPR.

   Action: Approved Staff Recommendation on a 2 – 0 vote.

3. **Fee Increase and Reduction to Local Assistance (BCP #2).** The Administration requests approval of a 3.28 percent fee increase. AB 1298 (Ch 488, St of 2001) increased ABC fees over a three-year period and authorized annual Consumer Price Index (CPI) fee increases effective January 1, 2005, via the budget process. However, ABC has not requested a CPI increase until this year. To further reduce the gap between revenues and expenditures, a reduction of $1.0 million (from $3.0 million to $2.0 million) is proposed for grants to local law enforcement for programs that reduce underage drinking and increase the enforcement of liquor laws.

Background / Detail: The Department indicates that revenue grows about two percent each year from growth in the licensee population; however, the Department's costs have increased at a faster rate, and again, fees have not increased since January 2004. As cost drivers, the Department cites: unanticipated increases in personal services associated with the Bargaining Unit 7 contract; routine increased general operating expense; and increased funding for local grants in 2006-07 and ongoing (grants increased from $1.5 million to $3.0 million annually). Staffing has been relatively unchanged (plus 3.0 positions) over this period.

<u>Fee Increase:</u> A single-year CPI increase might be expected to increase revenues by about $1.1 million at current inflation rates. Because the current structural deficit is about $4.0 million, it will likely take several years of CPI increases to close the gap, and a shrinking fund balance may require that a catch-up (or double) CPI increase be made in some year to compensate for the four year period without a fee increase. Under the assumptions of continuing baseline expenditures, annual CPI increases starting January 1, 2009, and no employee raises over the three years, the fund balance would be $5.5 million at the end of 2008-09, $2.5 million at the end of 2009-10, and about $1.1 million at the end of 2010-11.

<u>Local Assistance Program:</u> The Grant Assistance Program (GAP) provides grants to expand local law enforcement for programs that reduce underage drinking and increase the enforcement of liquor laws. The Administration indicates that the reduction from $3 million to $2 million is not necessarily permanent, depending on the health of the fund balance in 2009-10 and beyond.

Staff Comment: The proposed CPI increase seems justified. It seems likely a catch-up or double CPI increase might be necessary at some point, dependent on collective bargaining and other factors. Given the expenditure savings associated with delays in the IT project (see issue #2 above), the Subcommittee may want to direct $1.0 million of that savings to restore the local grants to the base level of $3.0 million.

Staff Recommendation: Approve the requested CPI fee increase and redirect the expenditure savings from the delayed IT project to restore the local assistance program to the base level of $3.0 million.

Action: Approved Staff Recommendation on a 2 – 0 vote.

4. **Information Technology (IT) Infrastructure Replacement (BCP #1).** The Governor proposes a one-time augmentation of $231,000 (special fund) to replace about 15 percent of the Department's computers ($141,000), to hire an IT Security Consultant ($80,000), and to provide related training ($10,000).

   Background / Detail: The Department indicates that several of its computers are failing and that without replacement, support costs and employee output could suffer.

   Staff Comment: As a special fund department, ABC is not subject to the 10 percent budget reductions proposed by the Administration for General Fund departments. While not a General Fund department, ABC has a structural deficit as indicted in the prior issue. Given the general Subcommittee direction to defer non-critical administrative augmentations at special fund departments, the Subcommittee may want to reject this request and allow ABC to absorb the costs of these expenditures in its base budget – to the extent they cannot be deferred.

   Staff Recommendation: Reject the request.

   Action: Rejected request on a 2 – 0 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 assessments of the various industries, license and application fees, and charges for various other services.

The January Governor's Budget proposed total expenditures of $32.5 million (no General Fund) and 241.2 positions - an increase of $3.5 million and 18.0 positions. The Governor's budget for DFI was approved at the March 24 hearing and the issue that follows is an April 1, Finance Letter request.

Issues proposed for Discussion / Vote:

1. **Money Transmitter Program - New Staff (April Finance Letter).** The Governor proposes a budget augmentation of $1.0 million and 9.0 positions to address workload growth in the Money Transmitter Program. The Department indicates that there has been tremendous growth in the transmitter industry, an increase in the number of poorly rated licensees, and new workload related to anti-money laundering and terrorist financing regulations.

   Background / Detail: The DFI has base staffing of 9.0 examiners and 2.0 managerial employees. This proposal would add 7.0 examiners and 2.0 managerial employees. The Money Transmitters Program is the smallest of DFI's programs; however, the combined total assets of money transmitter licensees ($392 billion) exceeded combined total assets of California banks ($226 billion) and California credit unions ($69 million). Unlike banks and credit unions, deposits held by money transmitters are not insured by the FDIC. There are 69 money transmitters licensed in California, although they operate through a network of 13,800 agents at over 22,479 locations. Currently 41 percent of licensees are rated as "problem licensees," triggering more frequent visits. The volume of money transmitted to foreign countries from California has increased from $3.9 billion in 2000 to $13.1 billion in 2006.

   Staff Comment: The Department has done a zero-based analysis of workload to develop the staffing request. While the department has supplemented staff in the last few years with three retired annuitants, the analysis assumes DFI will discontinue this practice.

   Staff Recommendation: Approve this budget request.

Action: Approved request on a 2 – 0 vote.

2740 Department of Motor Vehicles

The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver 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 January Governor's Budget proposed total expenditures of $958.3 million (no General Fund) and 8,249.2 positions, an increase of $18.7 million and a decrease of 39.4 positions. The issues herein are those left open at the March 24 and subsequent Finance Letters.

Issue for Vote Only:

1. **Facilities Issues – (April 1 & May 1 Finance Letters).** The Administration requests various budget augmentations and reductions related to facilities projects. The specific projects are as follows:

   - **One-time Lease Savings (April FL #5):** The Administration requests a budget reversion of $5.0 million in 2007-08 and a budget reduction of $3.5 million in 2008-09 (various special funds) to reflect the savings that have resulted by the delay in occupying various leased facilities approved in the 2007 Budget Act. The revised schedule assumes occupancy of the Oxnard and Redding Driver Safety Offices and the Bakersfield and Vallejo Business Service Centers starting January 1, 2009. The Metropolitan Los Angeles Business Service Center and consolidated southern California Telephone Service Center will be occupied in May 2009.
   - **New Build-to-Suit-with-Purchase-Option Lease (April FL #3):** The Administration requests a $2.3 million in 2008-09, $1.2 million in 2009-10, and $1.6 million in 2010-11 and ongoing to construct a new facility at an existing DMV-owned property in Rancho Cucamonga. The DMV-owned property was vacated in 2000 due to mold damage that could not be satisfactorily repaired. DMV has since leased a different facility; however, the lessor is unwilling to extend the lease. The proposal is to enter into a lease/lease-back contract with a purchase option in year 10. The FL indicates this proposal is consistent with SB 754 (Ch 681, St 2007, Kehoe) that allows the DMV to pursue innovative financing for replacement of this office and two other specified offices.
   - **Reappropriation for Office Reconfiguration (May FLs):** The Administration requests a reappropriation of $704,000 in funds originally appropriated in the 2007 Budget Act. The reappropriation is requested due to project delays – the nature of the projects has not changed. The funds would support the working-drawings phase of office reconfigurations in three field offices: Victorville, San Bernardino, and Redding.

   According to the 2008 California Infrastructure Plan, DMV occupies 98 state-owned facilities, 117 leased facilities, and shares an additional 12 facilities with other state agencies.

2. **AB 462 Implementation (BCP #5a).** The Administration requests $96,000 (special funds) in one-time funding to implement AB 462 (Ch 497, St. of 2007). Assembly Bill 462 authorized the owner of a passenger vehicle, 1969 model or older, to utilize previously-issued California license plates that correspond to the model year of the vehicle, and increased the application fee to $45.00. The requested augmentation would fund consultant costs and data center costs for information-technology programming modifications.

   Staff Comment: This issue was held open at the March 24 hearing and the Subcommittee asked the DMV to provide estimates of the new revenue that would be associated with AB 462. The DMV indicates that the new revenue gain would be about $13,500 annually. The implementation cost of AB 462 is $96,000 one-time, so the cost of implementing the legislation will be fully covered by new revenue over a seven-year period.

Staff Recommendation on DMV Vote-Only Calendar: Approved these requests.

Action: Approved requests on a 2 – 0 vote.

Issues Proposed for Discussion / Vote:

3. **Motor Vehicle Account – Fee Increase (Governor's Budget).** The Administration proposes trailer bill language to increase the car registration fee by $11 dollars per year and increase late fees. This is proposed to eliminate the operating deficit in the Motor Vehicle Account (MVA) and keep the fund solvent. The base car registration fee (including a California Highway Patrol (CHP) fee) is $41 per vehicle – so the proposed increase would result in a new annual base fee of $52. The Administration indicates that this fee level will increase revenues by $385 million in 2008-09 (with an October 2008 effective date) and about $522 million in 2009-10 and thereafter.

Background / Detail: The MVA derives most of its revenues from vehicle registration and driver license fees. In 2007-08, those fees accounted for 90 percent of the estimated $2.1 billion in MVA revenues. The majority of MVA expenditures support the activities of the CHP (69 percent), the DMV (22 percent) and the Air Resources Board (7 percent). While increases in the number of cars, license holders, and other factors, have increased MVA revenues about five percent annually, expenditures have grown at a faster rate. The CHP's budget, for example, has grown at a rate of about nine percent annually. Some specific costs drivers are outlined in the bullets below:

- The number of CHP Officers has increased and a CHP Officers' contract tied salaries to those of local law enforcement resulting in above-average salary increases – in 2002-03 there were 7,237 Officers at a cost of about $540 million and in 2007-08 there are 7,617 Officers at a cost of about $750 million.
- The CHP began a radio replacement project in 2006-07 that will cost about $500 million to implement.
- The DMV is implementing several large information technology projects with a combined cost of about $334 million.
- Various programs at the Air Resources Board have expanded, increasing MVA expenditures from $62 million in 2002-03 to $120 million in 2007-08. (Note: there was a $15.2 million loan from the MVA to the Air Pollution Control Fund in 2007-08 for AB 32 implementation, but there is no ongoing MVA funding for AB 32 implementation.)

An operating deficit has developed over the past few years and 2007-08 reflects revenues of $2.1 billion and expenditures of $2.4 billion. Without correct action, the MVA will become insolvent in 2008-09. Out-year pressure on expenditures may come from additional growth in the number of CHP Officers, possible expenditures to implement the Real ID Act, and risk from cost escalation of existing radio and information technology projects.

LAO Comments: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst indicates that the Administration's calculations overstate the revenue gain by about $32 million annually, and additionally there is risk to the assumption that doubling the late fee penalty (from the current range of $10 to $100 to the new range of $20 to $200), will not reduce the number of late payments and therefore reduce the revenue benefit. The LAO believes the proposed fee increases would sustain the MVA through 2013-14 (assuming historical expenditure trends). The LAO cites additional short-term risk from a late budget, with every month's delay eroding the revenue benefit in 2008-09 by $29 million.

Staff Comment: This issue was heard at the March 24 hearing and held open for further review and discussion.

Staff Recommendation: Approve this request.

Action: Approved request on a 2 – 0 vote.

4. **Federal REAL ID Act.** On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. In 2006, the DMV estimated implementation of Real ID would cost the State $500 million to $750 million. Final regulations from the federal government on the implementation of Real ID were released on January 11, 2008. At the March 24 hearing, the Subcommittee asked the DMV to update their detailed assessment of the impacts of Real ID and provide a report to the Legislature. The DMV has complied with this request, and estimates the final regulations have reduced implementation costs to about one-half of the 2006 figures. A primary driver of the lower cost estimate is the extended implementation period – about 10 years for full implementation.

   DMV 2008 Real ID Assessment: As requested by the Subcommittee, the report updates the information provided in the 2006 report. Included is:

   - A review of Real ID Final Regulations;
   - An assessment of California policy considerations;
   - A cost summary;
   - Comparative information on other states;
   - Correspondence between the DMV and the federal government;
   - Current California legislation under consideration;
   - and, the text of the Real ID Act and Final Regulations.

   This update should be useful to the Subcommittee, policy committees, and other interested parties. On the fiscal side, the updated cost estimate for California implementation of Real ID is now estimated to be in the range of $270 million to $300 million (versus the prior estimate of around $500 million). As indicated at the prior hearing, there is no significant federal funding currently available for this purpose.

   Staff Comment: Issues related to Real ID were discussed at the March 24 hearing and public testimony was received. The Subcommittee may want to hear from DMV briefly on the revised cost estimates, which represent new information since the last hearing. There are no DMV budget proposals related to Real ID for 2008-09, and the DMV has indicated no budget or policy proposals from the Administration are expected until next year.

   Staff Recommendation: No action - informational only.

Action: No action – informational issue.

5. **Vehicle Registration Financial Responsibility (April FL # 1).** The Governor requests $3.9 million and 10 positions in 2008-09 and $17.5 million and 136 positions in 2009-10 to continue to meet the requirements of SB 1500 (Ch 920, St 2004, Speier) and develop an in-house information technology (IT) solution to replace a vendor owned and operated interim solution. SB 1500 requires auto insurers to report to the DMV within 45 days of the effective date of a policy cancellation, and requires DMV to suspend the vehicle registration if coverage is not reinitiated.

   Background / Detail: SB 1500 should reduce the number of uninsured drivers, because prior to SB 1500, some car owners would obtain insurance, register their vehicle, and then cancel their insurance for the remaining 11 months of the year. The advocates for SB 1500 suggested it would produce major General Fund savings by reducing Medi-Cal costs related to auto accidents caused by uninsured drivers. Since implementation, 11.6 million vehicles were reported with insurance changes, 5.0 million warning letter were sent, and 2.6 million vehicle registrations were suspended. The program has a revenue component of a $14 reinstatement fee for individuals who improperly cancel auto insurance – trends suggest revenue from this fee should exceed $6 million in 2007-08.

   In 2006, DMV submitted a request for a $64 million information technology project to implement SB 1500 and indicated the statutory implementation date would be delayed. The Legislature rejected the delayed implementation and instead directed DMV to contract out the function on an interim basis to speed implementation. A three-year contract was signed at an original cost of $44.8 million and SB 1500 was implemented in October 2006. The 2007 Budget Act increased annual funding by $9.4 million because the number of vehicles impacted by the suspension program was much larger than originally anticipated.

   DMV now indicates that implementing the in-house information technology solution will be significantly less expensive than estimated two years ago. The recommended solution here has one-time costs of $5.5 million, continuing IT costs of $7.4 million and continuing staffing/program costs of $13.1 million.

   Staff Comment: Moving the function in-house is consistent with legislative intent from two years ago. While the DMV is not transferring over the software of the current vendor, the system they propose to develop will be better integrated with their data and web infrastructure. In a year or two, when revenue and cost data is more established, the Legislature might want to reexamine the level of the reinstatement fee to see if this program can be made to be self supporting (i.e. if those who cancel insurance and continue driving, can fund the DMV cost of policing this practice).

   Staff Recommendation: Approve the request.

   Action: Approved request on a 2 – 0 vote.

Attachment I: BSA Audit of the Board of Chiropractic Examiners

California State Auditor/Bureau of State Audits
Summary of Report 2007-117 - March 2008

State Board of Chiropractic Examiners:
Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement

AUDIT HIGHLIGHTS

Our review of the State Board of Chiropractic Examiners' (chiropractic board) enforcement, licensing, and continuing education programs and the role and actions of the chiropractic board members revealed the following:

- *Board members' lack of understanding about state laws related to their responsibilities as board members, including the Bagley-Keene Open Meeting Act, resulted in some violations of state law and other inappropriate actions.*
- *The chiropractic board did not ensure that its designated employees, including board members, complied with the reporting requirements of the Political Reform Act of 1974.*
- *Board members inappropriately delegated responsibility to approve or deny licenses to chiropractic board staff.*
- *The chiropractic board has not developed comprehensive procedures, such as the length of time it should take to process complaints and, as a result, staff do not always process complaints promptly.*
- *The board's weak management of its enforcement program may have contributed to inconsistent treatment of complaints as well as unreasonable delays in processing.*
- *The chiropractic board does not ensure that staff process priority complaints promptly. Of 11 priority complaints we reviewed staff took from one to three years to process nine of them.*
- *Although the chiropractic board's regulations require that it establish chiropractic quality review panels, it has never complied with its regulation.*
- *The chiropractic board has insufficient control over its licensing and continuing education programs.*

RESULTS IN BRIEF

The State Board of Chiropractic Examiners (chiropractic board) was created in December 1922 through the Chiropractic Initiative Act of California (initiative act). The initiative act prescribes the terms of issuing licenses to chiropractors, specifies the penalties to impose against licensees who violate those terms, and declares the powers and duties of the chiropractic board. In general, the board is a policy-making and administrative review body with the primary responsibility of protecting California consumers against fraudulent, negligent, or incompetent chiropractic practices.

A lack of understanding among members of the chiropractic board (board members) about state laws related to their responsibilities—including the Bagley-Keene Open Meeting Act (Bagley-Keene), the state law that prescribes open-meeting requirements for all state boards and commissions—resulted in some violations of state law and other inappropriate actions. Problems were also caused by the board's inadequate policies and procedures, such as the lack of documentation to support decisions made in each of the three board programs we reviewed: enforcement, licensing, and continuing education.

In one glaringly inappropriate instance, board members did not provide required written notice to the former executive officer, fired her during a closed-session meeting, and then failed to disclose the action when reconvening the public meeting. Board members remedied these significant errors at a subsequent meeting.

The Political Reform Act of 1974 (political reform act) requires state officials and employees with decision-making authority to disclose certain financial interests by filing statements of economic interests annually and on assuming or leaving a designated position. The chiropractic board did not ensure that designated employees complied with these reporting requirements. Among the 12 board members serving in 2005, 2006, and 2007, and the four employees whose statements of economic interests we reviewed, eight did not correctly complete statements of economic interests, nine filed statements late, and two did not file statements. Finally, the chiropractic board did not require all board employees making decisions on enforcement cases to file statements of economic interests.

The chiropractic board has taken actions, such as adopting an administrative manual in October 2007 and including an agenda item at many board meetings for its legal counsel to provide training or answer questions board members might have related to Bagley-Keene. We believe the new administrative manual and continued ongoing training could assist board members to further improve in executing their board responsibilities.

Board members also inappropriately delegated the responsibility to approve or deny licenses to chiropractic board staff (staff). Because staff rather than board members made final decisions on approving licenses and board members did not review staff-determined denials when applicants did not formally appeal those denials, the chiropractic board did not comply with the initiative act. According to our legal counsel, provisions of the initiative act clearly establish voter intent that the power to issue and deny licenses must be exercised by board members, and the act has no provisions that allow the chiropractic board to delegate this task to its staff. Our legal counsel has advised us that board members could easily remedy this noncompliance by ratifying all licenses approved or denied by staff, thus making board members responsible for those approvals and denials.

Additionally, the chiropractic board has not developed comprehensive procedures. For example, staff have no guidelines on the length of time they should take to process complaints; thus, staff do not always process complaints promptly. Our review of 25 complaints that the chiropractic board's database indicated were closed in fiscal year 2006–07 revealed that the chiropractic board sometimes took excessive amounts of time to resolve complaints and allowed unexplained and unreasonable delays between phases of the complaint review process. Further, the board's weak management of its enforcement program may have contributed to inconsistent treatment of complaints as well as unreasonable delays in processing them. Chiropractic board management (management) did not adequately supervise enforcement staff and their decisions on cases. We found instances when staff processed similar types of complaints differently. Further, staff took unreasonable amounts of time to refer complaint cases, including priority cases—those alleging sexual misconduct, gross negligence or incompetence, the use of drugs or alcohol when performing the duties of chiropractic, and insurance fraud—to the Office of the Attorney General for potential disciplinary actions against the licensees.

The chiropractic board's inadequate policies and procedures resulted in insufficient guidance for staff processing complaints. For example, the board has not established adequate procedures to ensure that only designated employees—staff required to file annual statements of economic interests—make final decisions on complaint cases or that management, who are designated employees, review staff decisions. The chiropractic board also has not established adequate procedures instructing staff on when it is appropriate to open an internally generated complaint. Additionally, the board has not established procedures requiring staff to clearly document their actions and decisions.

Further, the chiropractic board has not yet developed procedures to ensure that staff process priority cases promptly. Staff took more than one year to investigate and close five of the 11 priority complaints we reviewed; they took more than two years to process three and more than three years to close another. Also, staff did not consistently assign priority to certain types of complaints, and management did not monitor the status of open complaints on a regular basis.

The chiropractic board's regulations require that it establish chiropractic quality review panels (review panels). Although this has been a regulation since 1993, changes in executive officers and board members over the years resulted in changes in priorities and efforts to implement the review panels, and the board has never complied with its regulation.

The chiropractic board has insufficient control over its licensing and continuing education programs. It has not established timelines for processing some of its applications for licenses, certificates, and referral services. The board also could not always show whether it verified the status of chiropractors' licenses before approving applications and certificates. Additionally, many of the chiropractic board's current practices for administering its continuing education program are not consistent with its regulations and written policies and procedures. For example, it did not always follow regulations requiring board members to approve or deny the applications submitted by providers of continuing education. To further complicate an understanding of the process used, staff did not always retain appropriate documentation to demonstrate compliance with regulations, policies, and procedures.

RECOMMENDATIONS

To comply with Bagley-Keene, the chiropractic board should continue involving legal counsel to provide information and training to board members at each meeting.

To comply with the initiative act, the chiropractic board should modify its current process so that board members make the final decision to approve or deny all licenses. Additionally, board members should ratify all previous license decisions made by staff.

To comply with the political reform act, the chiropractic board should do the following:

- Establish an effective process for tracking whether all designated employees, including board members, have completed and filed their statements of economic interests on time, thereby identifying potential conflicts of interest.

- Periodically review its employees' responsibilities to ensure that all individuals who are in decision-making positions are listed as designated employees in its conflict-of-interest code.

To continue improving their knowledge and understanding of state laws and chiropractic board procedures, board members should consistently use their newly adopted administrative manual as guidance for conducting board business.

To adequately control its complaint review process, the chiropractic board should do the following:

- Develop procedures to ensure that staff process and resolve complaints as promptly as possible by establishing benchmarks and more structured policies and procedures specific to each step in its complaint review process.

- Establish time frames for staff to open a complaint case, complete an initial review, refer the cases to a contracted investigator or expert if necessary, and close or otherwise resolve the complaint by implementing informal discipline or referring for formal discipline to ensure that all complaint cases move expeditiously through each phase of the complaint review process.

To ensure that its enforcement procedures are complete and to provide adequate guidance to enforcement staff, the chiropractic board should develop procedures instructing staff when to open and how to process complaints generated internally.

To consistently process and resolve consumer complaints regarding the same types of allegations, the chiropractic board should strengthen its existing procedures to provide guidance for staff on how to process and resolve all types of complaints and to ensure appropriate management oversight.

To process all priority complaints promptly, the chiropractic board should establish a process to clearly identify all priority complaints. In addition, management should ensure that it monitors the status of open complaints regularly, especially those given priority status, to ensure that they do not remain unresolved longer than necessary.

To comply with all its regulations, the chiropractic board should carefully consider the intended purpose of the quality review panels and whether implementing them is the best option to fulfill that intent. If the chiropractic board decides that another option would better accomplish the intended purpose of the review panels, it should implement the process for revising its regulations.

To measure the overall efficiency of its licensing program in processing applications and petitions, the chiropractic board should establish time frames for all the types of applications and petitions it processes.

To defend its decisions on approved applications for satellite offices, corporations, and referral services, the chiropractic board should implement a standard of required documentation that includes identifying when and who conducted eligibility verifications.

To ensure that its continuing education program complies with current regulations, the chiropractic board should do the following:

- Require board members to ratify staff approvals of continuing education providers.
- Ensure that its process to approve continuing education providers conforms to its regulations.

AGENCY COMMENTS

The chiropractic board agrees with nearly all of our recommendations and states that it has already implemented most of them, and that with the restoration of its funding, the board plans to meet or exceed the recommendations. However, the chiropractic board disagrees with our recommendation that board members must vote to deny the issuance of a license and that it should fill its chiropractic consultant position. Finally, the chiropractic board states that it is committed to improving its governance, enforcement, licensing, and continuing education functions.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

ADDENDUM - OUTCOMES
Thursday, May 8, 2008
10:00 a.m. or Upon Adjournment of Session
Room 112

9210 Local Subventions

5225 California Department of Corrections and Rehabilitation

Governor's Budget Proposal. The Governor's budget includes funding for the following major local law enforcement subventions.

Figure 1: Selected Local Law Enforcement Subventions, General Fund

Summary of Expenditures (dollars in millions)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Citizens' Option for Public Safety	$119	$107	-$12	-10.1
Juvenile Justice Crime Prevention Act	119	107	-12	-10.1
Small/Rural Sheriffs Grants	19	17	-2	-10.5
Local detention facility subventions	35	32	-3	-8.6
Juvenile Probation and Camps Funding	201	181	-20	-10.0
Mentally Ill Offender Crime Reduction	45	41	-4	-8.9
Total	**$538**	**$485**	**-$53**	**-9.9**

Action. Subcommittee deleted all funding for the programs listed above.

Vote. 2-1 (Harman)

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Wednesday, May 14, 2008
9:30 a.m.
Room 3191

Court Appointed Receiver for Medical Care

Background. In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate medical care to prison inmates.

In January 2002, the state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focused on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitored the implementation of the agreement, and periodically reported to the court on the state's progress in complying with the agreement.

In September 2004, the federal court issued an order finding significant deficiencies in the department’s efforts to implement the terms of the settlement agreement and, in June 2005, the federal court decided to appoint a Receiver to manage CDCR’s health care system. The Receiver would manage CDCR’s health care system until the department proves to the court that it is capable and willing to manage a constitutional health care system or contract out for a similar level of care. The court appointed Robert Sillen as the Receiver in February 2006. Robert Sillen was replaced as the Receiver by the court in January of this year by J. Clark Kelso.

Previous Subcommittee Hearing. This Subcommittee heard testimony from the court-appointed Receiver at its April 14 hearing related to the Receiver’s plans to build health care and health-care related facilities.

At this hearing the Subcommittee also heard a short overview of the new Receiver’s draft strategic plan that was released for public comment on March 11, 2008. According to the plan, the overall mission of the Receivership is to reduce unnecessary morbidity and mortality and protect public health by providing patient-inmates timely access to safe, effective, and efficient medical care, and coordinate the delivery of medical care with mental health, dental, and disability programs.

Since that time the Receiver has amended his plan and a new draft strategic plan (2.0) was submitted to the court on April 21, 2008. The five strategic goals identified in the draft strategic plan remain the same. The plan also includes associated objectives and action items that describe the steps to bring CDCR’s health care program to constitutionally acceptable and sustainable levels. The five strategic goals are as follows:

1. Ensure timely access to care;
2. Improve the medical program;
3. Strengthen the health care workforce;
4. Establish medical support infrastructure; and
5. Build health care and health care-related facilities.

The Receiver notes that several of these goals encompass virtually all aspects of CDCR's health care delivery system and the Receiver has indicated that he is actively coordinating planning and implementation with CDCR's mental, dental, and disability accessibility programs.

Health Care Budget—Support

Background. In order to support the reform initiatives spearheaded by the Receiver, the Plata Support Division was created. This Division is made up of CDCR employees who provide health care administrative and business services support to the Receiver's reform initiatives. This support division is separate from CDCR's support services and develops budget proposals separate from CDCR's budget development process.

Previous Expenditures. The state started expending funding related to the *Plata* lawsuit in 2002-03. Since then, the state has allocated nearly $590 million to improve medical care within CDCR. This has included expenditures directed by the department and since 2005 expenditures directed by the court-appointed Receiver. An unallocated appropriation was included in both the 2006 and 2007 Budget Acts for the purpose of funding the reform efforts of the Receiver. Budget bill language was included in the 2007 Budget Act that also allowed the Receiver to direct these expenditures for coordinated activities of the Receiver and the *Coleman* and *Perez* class action lawsuits (mental health and dental, respectively).

Current Year Funding. The 2007-08 Budget Act included $125 million General Fund in an unallocated account to be directed by the Receiver. The Receiver has directed the expenditure of $91 million thus far in the current year. The funding has been allocated to the following priorities:

- Health Care Access Units - $24.9 million to add additional custody staff to implement health care access teams and augment medical guarding and transportation.
- Receivership Administration - $41 million to support administration of the Receivership, including various initiatives.
- Salary Increases - $17.5 million for salary increases for physicians and licensed vocational nurses.
- Health Records and Other Augmentations - $5 million to establish a third-watch program for medical records and various other staffing augmentations to improve recruitment of medical staff and improve medical delivery.
- Medical Oversight Program - $2.1 million to establish a pilot Medical Oversight Program. The initial focus of this program will be to review death related cases.

There is approximately $34 million remaining in the unallocated account included in the 2007 Budget Act to fund the Receiver's directives.

A Finance Letter (dated April 17, 2008) requests additional funding in the current year of $129 million. The Administration proposes to fund this request pursuant to Provision 6 of Item 9840 in the 2007 Budget Act. This funding is to cover increased costs associated with medical guarding and transportation ($82.9 million) and for additional pharmaceuticals and medical supplies ($45.8 million). The details related to these additional costs are summarized below and described in more detail in the respective items below. Funding to support this request will have to be appropriated by the Legislature in a supplemental appropriations bill.

Proposed Funding for the Receiver

	2007-08			2008-09		
Funding	**Jan 10 Budget**	**April Letter**	**Total**	**Jan 10 Budget**	**April Letter**	**Total**
Health Care Access Units	$0	$0	$0	$30,244	$79,776	$110,020
Medical Guarding	0	82,869	82,869	15,501	73,818	89,319
Pharmaceutical and Medical Supplies	0	45,838	45,838	0	45,838	45,838
Medical Care Appeals Unit	0	0	0	1,600	0	1,600
Centralized Pharmacy	0	0	0	0	10,105	10,105
Medical Oversight Program	0	0	0	0	2,343	2,343
California Prison Health Care Receivership Corp.	0	0	0	26,000	0	26,000
Total	**$0**	**$128,707**	**$128,707**	**$73,345**	**$211,880**	**$285,225**

Governor's Budget Summary. The Administration has proposed to eliminate the unallocated account provided to the Receiver in the past two budget years and instead has attempted to put forward a budget for the Receiver that is based on a more traditional budget change proposal approach. The LAO finds that this action aligns the budget for the Receivership with the state's budget process.

The additional funding proposed by the Receiver and requested by the Administration is summarized in the chart above. These items are discussed in more detail below. Overall, the funding in the budget under the Receiver's authority is proposed to grow from $1.6 billion in the current year to $1.8 billion in the budget year, including the funding contained in the Finance Letter. This is an increase of $151 million or 10 percent. This funding does not include funding for the various capital outlay projects proposed and directed by the Receiver.

The Receiver indicates that he is working on several other health care initiatives that may require additional funding in the budget year.

Impact of Population Reduction Proposals. The Governor has proposed two population reduction proposals that taken together would reduce the state prison population by approximately 35,000 inmates. These proposals would reduce the overall expenditures needed by the Receiver. However, the Administration has indicated that the Receiver's budget proposals have not been adjusted to account for the budget proposals put forward to reduce the prison population. The LAO finds that these proposals should be reduced if the Legislature takes action to reduce the inmate population.

1. Health Care Access Units

Background. The Receivership started a pilot program at San Quentin State Prison in 2006 to assess the custody-related problems with the delivery of medical services. During the implementation of this pilot the Receiver found that there was a shortage of custody personnel to escort and transport inmates to medical appointments. The Receiver also found that the institution lacked an organized operational schedule of daily activities that integrated institution security operations with access to care requirements. This resulted in many missed appointments, significant scheduling workload, and increased backlogs of appointments. Furthermore, the Receiver also found that appropriate transportation vehicles were often not available and no formal medical emergency response procedures were in place.

To address these concerns the Receiver established Health Care Access Units. These units are designed to be accountable for escorting, transporting, and guarding inmates to and from medical appointments within the institution and to specialty care providers within the local community. In June 2007 all existing custody personnel involved in health care access were assigned to the new Health Care Access Units. However, the Receiver found significant additional staffing was needed to ensure adequate access to health care.

In addition to the pilot project at San Quentin, a full review of the custody staffing needed to provide an adequate level of health care access has also been conducted at the California Medical Facility and Avenal State Prison. The Receivership refers to these full scale custody reviews as Track 1. However, given the time it takes to conduct these reviews it has also embarked on a Track 2, which entails a preliminary review of custody staffing needs. The Receivership has completed preliminary reviews of custody staffing at all institutions except four.

The Receivership indicates that it plans to continue on Track 1 to determine the specific custody needs of each institution and will adjust the custody resources needed after each of these institution's reviews are completed. The Receivership also indicates that as the consolidated care centers are built the mission and populations at each institution will change and further adjustments will be needed related to the custody staffing.

Governor's Budget and Finance Letter. The Governor's budget proposal and Finance Letter (dated April 4, 2008) includes $110 million for health care access units at all *Plata* institutions (*Plata* institutions are all adult institutions except for Pelican Bay State Prison). This funding will support 1,333 positions (mainly custody positions) to augment the positions in the Health Care Access Units to ensure that inmates are escorted to appointments within the institution. (For simplicity, the Administration and the Receiver's office has split the custody resources needed to access care in the institution from the custody resources needed to access health care outside of the institutions. The former is referred to as the funding for Health Care Access Units and the latter is referred to as medical guarding and transportation.)

The vast majority of the proposed positions (1,273 positions) are for various custody classifications to assist in providing the custody escorts within the institution to provide access to care. The proposal also allocates 30 Associate Government Program Analysts and 30 Office Technicians in order to provide each *Plata* institution (except San Quentin, California Medical Facility and Pelican Bay State Prison) with an analyst and an office support position. These non-custody staff will help to perform the clerical duties associated with scheduling and coordinating the escort staff and transportation. Currently, custody personnel are being redirected to perform these duties.

Staff Comments. Staff finds that the Receiver is in the midst of a major effort to assess the custody staffing needed at each institution to ensure health care access. This is a much more detailed effort than previous efforts by the department that have only assigned additional custody staff based on population-driven fixed ratios. Staff finds that this level of review is needed and has been discussed as part of the department's efforts to reform its population estimate process.

Nevertheless, staff finds that the review currently being conducted, and the resulting staffing, will need to be adjusted again as the consolidated care centers are activated. Currently, the department's most medically needy inmates are located throughout the state prison system and under the Receiver's consolidated care model these inmates will be transferred to six consolidated care centers. This will impact the staffing needed at each institution. However, staff understands that a certain level of increased staffing for the health care access units will likely remain even after the consolidated care centers are constructed.

The LAO finds that there is considerable uncertainty related to the department's ability to fill all of the positions it is proposing to establish in the current year and the budget year. The Receivership has indicated that some of these positions may be filled with overtime. However, they also indicate that they have already made significant progress in filling many of the Health Care Access Unit positions established in the current year and have developed plans to fill these positions with each of the institutions. Nevertheless, the LAO finds that given the uncertainty and relative magnitude of the task of filling these positions that the funding for this effort be tracked separately in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget proposal and Finance Letter proposal.
- Approve budget bill language to track these expenditures separately to ensure that unspent funds revert to the General Fund.

2. Health Care Guarding and Transportation

Background. As referenced above under the discussion of Health Care Access Units, the Receiver is conducting a review of the custody resources needed to support providing CDCR inmates with increased access to health care. This includes medical guarding and transportation to routine clinical care, specialty care, and other appointments outside of the institution, as well as outside hospital care and other acute care as needed.

Current Year Funding. A Finance Letter (dated April 17, 2008) requests $83 million in the current year to cover the overtime costs associated with medical guarding and transportation the Receiver expects to incur in the current fiscal year. The Administration proposes to fund this request pursuant to Provision 6 of Item 9840 in the 2007 Budget Act.

Governor's Budget and Finance Letter. The Governor's budget and Finance Letter (dated April 4, 2008) includes $89.3 million to augment the department's resources for medical guarding and transportation in the budget year.

The funding requested for the budget year will be to establish 795 positions in the budget year and provide at least $37 million to cover overtime expenditures. The Receiver proposes to hire additional staff in 2009-10 and further reduce the reliance on overtime expenditures to cover these costs.

Staff Comments. Staff finds that health care guarding and transportation outside of the institution is very costly. For example, one inmate in a community hospital can require two custody staff to guard the inmate 24-hours a day. The Receiver indicates that these costs can be reduced considerably if a hospital has a secure hospital wing or secure rooms dedicated to in-custody patients. Currently, there are only limited hospitals with these facilities. The Receiver indicates that it is currently working with community hospitals to contract for dedicated in-custody wings or rooms in the hospital in order to reduce the medical guarding and transportation costs. The Receiver indicates that it is concentrating its efforts with regional hospitals that are in the proximity of where the Receiver plans to construct the six consolidated care centers.

Furthermore, the funding needed at each institution to support medical guarding and transportation is expected to change considerably once the consolidated care centers are constructed and the most medically needy population is moved to these centers. Staff finds that the overall medical guarding and transportation expenditures would be expected to decline at many institutions under this scenario.

The LAO has concerns similar to those raised regarding the funding to support the Health Care Access Units. It is unclear whether the department can adequately fill these positions and there is some concern that these funds will not be expended in the budget year. Given this, the LAO recommends that the funding allocated for this effort be tracked separately in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget proposal and Finance Letter proposal.
- Approve budget bill language to track these expenditures separately to ensure that unspent funds revert to the General Fund.

3. Pharmacy Operations

Background. One of the major projects implemented under the last Receiver was to overhaul CDCR's pharmacy operations. The Receiver adopted a Roadmap for improving pharmacy services. The Roadmap includes the following seven goals:

- Develop meaningful and effective centralized oversight, control, and monitoring over the pharmacy services program.
- Implement and enforce clinical pharmacy management processes including formulary controls, Pharmacy and Therapeutics committee, disease management guidelines, and the establishment of a program of regular prison institution operational audits.
- Establish a comprehensive program to review, audit, and monitor pharmaceutical contracting and procurement processes to ensure cost efficiency in pharmaceutical purchases.
- Develop a meaningful pharmacy human resource program that effectively manages staffing, compensation, job descriptions, competency, performance assessment, discipline, training, and use of the workforce including temporary employees and non-pharmacist staff.
- Redesign and standardize overall institution level pharmacy drug distribution operations for inpatient and outpatient needs. Design, construct, and operate a centralized pharmacy facility.
- Based on a thorough understanding of redesigned work processes, design and implement a uniform pharmacy information management system needed to successfully operate and maintain the CDCR pharmacy operation in a safe, effective, and cost efficient way.
- Develop a process to assure CDCR pharmacy meets accreditation standards of the designated healthcare review body and assist in obtaining accredited status.

The Receivership contracted with Maxor to help the Receivership reengineer the department's current decentralized pharmacy system into a more centralized pharmacy operation. In January 2007, Maxor started oversight of pharmacy operations for CDCR. Historically, CDCR used the Department of General Services for purchasing and pharmacy operations at each institution operated semi-autonomously. Maxor, in conjunction with the Receiver, is working to completely change this system to make it more centralized, uniform, and efficient.

In order to move to a more centralized system, the Receivership is currently developing a Request for Proposal for the operation of a central fill pharmacy. The Receivership is currently looking for a site in Sacramento for this facility. This facility will receive and manage the distribution of pharmaceuticals to each institution. This will enable the department to better manage its pharmaceutical inventory and enable pharmacy personnel in the institutions to focus more on medication management and less on managing pharmaceutical inventory.

The Receivership and Maxor are also in the process of implementing a new automated pharmacy information technology system called Guardian Rx. This window-based, networked system integrates dispensing, pharmacy management, work flow, and patient care. The system is capable of using bar-code technology for Rx scanning and verification and also has the capability of developing a unique electronic medication administration record for each inmate.

The Receivership indicates that to date it has implemented Guardian Rx at four prisons, but because of connectivity issues at each of the prisons the implementation of this tool has been delayed. Nevertheless, the Receivership indicates that it is continuing to make progress in implementing the Guardian Rx system and upgrading the networking and fiber optic systems at each institution.

The Receivership is coordinating its efforts to improve pharmacy operations with the *Coleman* and *Perez* lawsuits related to mental health and dental, respectively.

Current Year Funding. A Finance Letter (dated April 17, 2008) requests $45.6 million in the current year to cover pharmaceutical and medical supply expenditures the Receiver expects to incur in the current fiscal year. The Administration proposes to fund this request pursuant to Provision 6 of Item 9840 in the 2007 Budget Act.

Finance Letter. A Finance Letter (dated April 4, 2008) includes the following two budget proposals related to pharmacy operations and pharmaceutical supplies:

- **Centralized Pharmacy.** $10.1 million to support the operating expenditures and start-up expenditures for a new central fill pharmacy in Sacramento. The funding request includes $6.6 million for one-time and capital expenditures needed to set up the new facility in a leased space. The funding request also includes $3.5 million to support operations of the facility. The Receivership indicates that it is currently developing a Request for Proposal to manage the central fill pharmacy. However, the Receivership also indicates that some CDCR staff will be needed to oversee operations of this facility and would be redirected internally to the central fill pharmacy.
- **Pharmaceutical and Medical Supplies.** $45.8 million to augment the budget for pharmaceutical and medical supplies to cover all of the pharmaceutical and medical supplies needed because the current base budget for these supplies is inadequate. The Receivership has requested this increased amount for a three-year limited term starting in the current year until the centralized system is fully operational. Once the new centralized system is operational, the Receivership indicates that it will reevaluate its needs for pharmaceuticals and other medical supplies. The Receivership expects that once the centralized system is implemented, bulk purchasing and greater inventory control will enable these costs to be reduced.

Staff Comments. Staff finds that the development of a more centralized pharmacy operation should increase the efficiency of the system that could result in substantial savings to the state. Furthermore, the implementation of an information technology system that can track inmate prescription information will improve the department's ability to oversee medication management. This is a critical component to improving medical care and mental health care.

The Receivership has indicated to staff that there may be some delays in leasing a space for the new central fill pharmacy. Given these delays, there may be some savings in operational expenditures in the budget year.

The Receivership indicates that expenditures on pharmaceuticals and medical supplies in 2006-07 increased by over 20 percent over the prior year expenditures. The Receivership estimated that this left the department with a shortfall of nearly $33 million in 2006-07. The Receivership is estimating that expenditures on pharmaceuticals and medical supplies may increase by around 7 percent in the current fiscal year. The funding proposed will cover this shortfall and the moderate expected growth.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold open funding for the centralized pharmacy and request the Receiver to provide an update on the operational expenditures needed in the budget year given the delay in implementing the centralized pharmacy.
- Approve the increased funding for pharmaceutical and medical supplies.

4. Medical Oversight Program

Background. The Receiver started the implementation of a pilot Medical Oversight Program in the current year by transferring $2.1 million from the unallocated account provided for Receiver-directed expenditures included in the 2007 Budget Act. The Legislature was notified of this transfer in a Finance Letter (dated January 7, 2008).

The initial focus of this program will be to review death related cases with the overall goal of maximizing the effectiveness of the investigation and prosecution process for medical staff. The funds were used to establish 23 new positions in four different units to implement this program. The responsibilities of the four units are described below:

- Medical Central Intake Unit – This unit will be staffed with medical experts from the Plata Support Division, Special Agent Investigators from the Office of Internal Affairs, Vertical Advocates from the Employment Advocacy and Prosecution Team, and Inspector Generals from the Office of the Inspector General. This team will utilize a multi-disciplinary approach to determine whether or not an investigation is warranted.
- Medical Investigations Unit – This unit will be established within the Office of Internal Affairs and will consist of investigators and medical experts from the Plata Support Division that will perform expedited investigations of misconduct of CDCR health care staff on unexpected deaths that the Medical Central Intake Unit refers for investigation.
- Medical Advocacy Unit – This unit will be established as part of the department's Employment Advocacy and Prosecution Team and will be responsible for performing expedited disciplinary actions if warranted.
- Medical Monitoring Team – This team will be established within the Office of the Inspector General and will conduct independent oversight of the units using the same model the Inspector General currently uses to investigate disciplinary matters pursuant to the *Madrid* lawsuit.

This effort will be a collaboration among the Plata Support Division, the CDCR's Office of Internal Affairs, CDCR's Office of Legal Affairs, and the Office of the Inspector General.

Finance Letter. A Finance Letter (dated April 4, 2008) proposes $2.3 million in the budget year, which is the full-year cost of implementing the new medical oversight program. This amount does not include the $878,000 allocated to the Office of the Inspector General (OIG). The funding for the OIG was approved at the April 10 meeting of this Subcommittee.

Staff Comments. Staff finds that the mission of the Receivership is to "Reduce avoidable morbidity and mortality and protect public health by providing patient-inmates timely access to safe, effective, and efficient medical care…". One of the factors in achieving this mission is to ensure that CDCR clinical and contract staff are providing high quality medical care to the inmates. The department already oversees the conduct of custody staff and other staff. This oversight program would extend this oversight to the department's clinical staff.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter request.

5. Health Care Appeals Unit

Background. The purpose of the inmate appeals process is to provide resolution of inmate grievances in a timely manner and at the lowest possible level. The process directs inmate complaints through one informal and two formal levels of appeal at the institution and a final third level known as the Third Level of Review (formerly the Director's Level of Review). The Inmate Appeals Branch is currently responsible for the oversight of all of CDCR's inmate appeals, including appeals related to health care.

Governor's Budget. The Governor's budget proposes $1.6 million to establish a new Office of Third Level Health Care Appeals under the direction of the Receiver. The new office will handle all appeals related to health care, including mental health and dental. These funds will be used to establish 17 positions, including nine clinical staff to review the inmate appeals related to health care.

The Administration does not propose a corresponding reduction to the Inmate Appeals Branch because the Administration finds that the current inmate appeals process is overburdened and was never adequately staffed to handle health care grievances.

Staff Comments. The Receivership estimates that health care grievances are 25 percent of all grievances. Health care grievances have increased by over 60 percent over the past four years. The Receiver indicates that there are many explanations for the increased grievances, including the overall awareness the inmate population has of the Receivership and various changes implemented by the Receiver.

Staff finds that the inmate appeals process provides unique inmate perspective on institutional health care operations in the prisons. Better tracking and reviewing of the inmate appeals related to health care will enable the department to identify and report problems in the health care system.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

6. California Prison Health Care Receivership Corp.

Background. The California Prison Health Care Receivership Corp. is a non-profit organization created to house the activities of the federal Receiver over California's prison medical care. The Receivership was established by the federal court and its operations are funded by the General

Fund. Over the past year the budget for the Receivership has been funded from the unallocated account included in the 2007 Budget Act for expenditure by the Receiver.

Current Year Funding. In the current year the Receiver has transferred $41 million from the unallocated account included in the 2007 Budget Act to support the Receivership.

Governor's Budget. The Governor's budget proposes $26 million in a separate budget item to support the direct expenditures of the California Prison Health Care Receivership Corp.

Inspector General Audit. The federal court that created the Receivership directed the Receiver to coordinate with the Office of the Inspector General (OIG) to periodically review the expenditures of the Receiver. The OIG released its first review of the Receiver's expenditures in February 2008.

The first review by the OIG found that the Receivership's largest expense category was personnel services, comprising of the Receivership's employees and consultants. The Receivership also spent more than $8.7 million on capital asset purchases made on behalf of CDCR. All of the expenditures detailed in the OIG's report are summarized in the table below:

Summary of Receivership Expenditures, April 2006 through June 2007

Expenditure	**Amount**	**Percentage**
Capital Assets	$8,719	42%
Professional Fees	4,892	24
Employee Compensation	4,889	24
Employee Benefits	1,023	5
Other Expenditures	743	4
Travel	353	2
Total	**$20,619**	**100%**

The report found that when the Receivership was first established some employees were paid in lieu of benefits. The OIG identified $611,000 that was expended for this purpose, including $219,000 that was paid after the Receivership began to provide benefits. This practice was ended by the federal court in October 2007.

The report also identified 12 employees that had a projected annual salary that exceeded $225,000. The report also identified that most of the professional fees ($2.8 million) were paid to Maxor that is providing the Receivership with pharmacy management consulting services. The report identified that the Receivership had failed to require staff members to provide proper support before paying $10,500 in travel expenditures. Furthermore, the department seemed to have inconsistent policies for treating the travel and per diem for consultants.

The OIG recommended that the Receiver take the following actions to ensure that it safeguards public resources:

- Ensure that the level of compensation paid to employees is an appropriate use of funds and regularly reevaluate salary and wage packages it provides its staff members.
- Ensure employees and contractors properly support all travel expense claims with original receipts and invoices and include descriptions of the business purpose.
- Ensure that employees properly support charges appearing on corporate credit card accounts before paying the bill.

Response from Current Receiver. The new Receiver agrees with the OIG's recommendations and has agreed to implement the recommendations as the Receivership proceeds with its activities. Since the new Receivership was appointed it has closed its offices in San Jose and several of the highest paid executives at the Receivership have been separated from the Receivership Corp. The Receiver estimates that these changes will reduce annual operating expenditures by approximately $4 million.

The Receiver also indicated that the cash in lieu of benefits payments have ceased and the numbers of employees with salaries that exceed $225,000 have been reduced to eight employees, including seven executive medical professionals and one executive manager.

Staff Comments. Staff finds that no details have been provided related to how the Receivership plans to expend the $26 million allocated to support its operations. The Receivership indicated that it would provide staff with additional information on its updated expenditures, but no information has been received.

Furthermore, staff finds that the OIG report identified that the Receivership had carried a significant reserve (nearly $16 million). It is unclear whether the Receivership continues to carry a reserve of this size. The Receivership indicates that it needs some level of reserve to cover expenditures that cross fiscal years in the event that the budget is not passed on time.

Staff Recommendation. Staff recommends that the Subcommittee hold this item open pending additional information on the proposed budget for the Receivership.

5225 California Department of Corrections and Rehabilitation

Division of Correctional Health Care Services

1. *Coleman* Mental Health Staffing

Background. In June 1991, *Coleman v. Wilson* was filed in federal court contending that CDCR was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate mental health care to prison inmates. *Coleman v. Wilson* alleged that the department's mental health care system was inadequate in several areas, including intake screening, access to care, treatment, and record-keeping.

As a result, in 1994, the Federal Court ordered the department to develop a remedial plan to correct these deficiencies. The plan developed by the department is referred to as the Mental Health Services Delivery System (MHSDS). The intent of the MHSDS is to provide timely, cost-effective mental health services that optimize the level of individual functioning of seriously mentally disabled inmates and parolees in the least restrictive environment. At this time, the court also appointed a Special Master to oversee the implementation of the plan. The current Special Master is Mathew Lopes.

In 1997, CDCR issued a preliminary version of the MHSDS Program Guide, which established preliminary policies and procedures to provide constitutionally adequate mental health services at all CDCR institutions. This Program Guide has been amended several times since 1997 under directives by the federal court.

Chapter 511, Statutes of 2006 (SB 1134, Budget) was enacted to appropriate $35.5 million to establish 552 positions to implement the MHSDS Revised Program Guide. This legislation required that the department conduct a workload study to determine the staffing requirements necessary to implement the MHSDS Revised Program Guide. The findings and recommendations of this study were supposed to be incorporated into the 2007 Budget Act, but because of delays the study and department review was not completed until December 2007.

The court has found that successful implementation of the MHSDS Program Guide will require capital improvements at many institutions. The department is currently pursuing several capital outlay projects and 5,000 additional mental health beds are being pursued as part of the Receiver's Consolidated Care Centers. The Consolidated Care Centers were discussed at the April 14 meeting of this Subcommittee and additional information is contained in the agenda regarding the other *Coleman* capital outlay projects being pursued.

Previous Funding for *Coleman* Lawsuit Compliance. To date, the Legislature has provided approximately $249 million General Fund to implement efforts to strengthen the department's mental health services and comply with the *Coleman* lawsuit.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes establishing 408 positions (mainly clinical) to provide staffing needed to implement the MHSDS Revised Program Guide. The workload study completed in June 2007 identified a revised mix of positions to fully implement the Revised Program Guide including establishing these additional positions. The budget proposal does not include additional funding required to support these positions given the significant number of vacancies the department has in these position classifications.

Population Estimate Relationship. The department has indicated that the workload study will replace the need for clinical staff added through the Prevalence Mix calculation that is part of the population estimate. This study is based on an actual clinical workload analysis and is for the mental health program, as opposed to the Prevalence Mix which is based on fixed ratios. The department indicates that the positions required by the workload study will be adjusted based on changes in the population. However, the department has not made any population adjustments in the budget year because the department only proposes funding a portion of the positions given the department's challenges in filling these positions in the budget year.

Staff Comments. Staff finds that the workload study has identified the need for over 3,000 positions (mainly clinical) to implement the Revised Program Guide. Given the overall shortage of mental health clinicians in the state it will be difficult for the department to hire all of the positions without significant recruitment efforts and pipeline development efforts. Even with these efforts the department will not likely be able to hire all of these positions for several years. Furthermore, recruitment by CDCR may adversely impact other state departments like the Department of Mental Health and local agencies that also have a demand for clinical staff.

Staff finds that CDCR is currently pursuing adding a state classification for licensed Marriage and Family Therapists (MFTs). The department is pursuing an additional classification of persons that it can hire as case managers given the overall shortage of all licensed clinicians, especially psychologists.

The Department of Mental Health currently delivers some limited clinical services and acute care in CDCR facilities. At the April 14 meeting of this Subcommittee there was some discussion about the overall public policy concerns with creating a second large mental health system in the state especially given the relatively limited pool of mental health clinicians. The Receiver over medical care testified that the Department of Mental Health had asked to be removed from CDCR institutions, but that subsequent discussions had taken place given the Receiver's new plans to build separate stand-alone medical and mental health facilities for CDCR inmates. Staff finds that the Department of Mental Health has a core competency in providing mental health acute care. Staff finds that the state may get better treatment outcomes if the Department of Mental Health had a larger role in delivering acute care to patients within CDCR facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Hold this issue open.

2. Relocation of Division of Correctional Health Care Services

Background. The department's Division of Correctional Health Care Services has been physically located at 501 J Street in Sacramento. The Plata Support Division under the direction of the court-appointed Receiver over medical care is also located at this facility. The Plata Support Division has grown considerably over the past year and is expected to continue to grow as it expands its Telemedicine program and starts to plan for the construction and operation of six new facilities and 10,000 specialized medical and mental health beds.

The growth in the Plata Support Division has already resulted in the Mental Health Program moving to another facility in the Natomas area of Sacramento. The department indicates that the Mental Health Program and Dental Health Program also have grown considerably given various court-directives and can no longer be accommodated in the 501 J Street facility of in the other facility located in the Natomas area of Sacramento. Furthermore, the department indicates that the decentralization of the Division of Correctional Health Care Services does not foster administrative coordination and decision making between the programs.

Governor's Budget. The Governor's budget proposes $2.6 million for ongoing lease costs associated with a new facility in the Sacramento area for the Division of Correctional Health Care Services. The budget proposal also includes $2.4 million in one-time funding for the purchase of modular furniture and other tenant improvements needed to make a new leased space usable for the division.

Staff Comments. Staff finds that the Division of Correctional Health Care Services continues to have significant challenges in implementing and managing various initiatives to improve mental health care and dental health care. Staff finds that centralizing the staffing responsible for these efforts would help to facilitate the coordination needed to implement the mission of the Division and coordinate with the Plata Support Division and the court-appointed Receiver over correctional medical care.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

3. Inmate Dental Services Program

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.

In August 2006, the federal court issued a revised order that, among other things, required a lower dental staff to inmate ratio (515 inmates:1 dentist). The order also directed the department to prepare a revised implementation plan for complying with the settlement agreement.

Generally, the policies and procedures modify or reiterate existing state regulations. For example, under the agreement, the department is required to provide a dental examination to inmates within 90 days of arriving at an institution from a reception center and provide subsequent examinations annually for inmates over 50 years of age and biennially for inmates under 50. Title 15 of the California Code of Regulations currently requires examinations within 14 days of an inmate's arrival; current requirements for subsequent inmate dental examinations are consistent with the settlement agreement.

Previous Funding for *Perez* Lawsuit Compliance. To date, the Legislature has provided approximately $143 million General Fund to implement efforts to strengthen the department's dental services and comply with the *Perez* lawsuit.

Governor's Budget. The Governor's budget proposal includes $2.6 million to support 19 positions and training for CDCR nurses and doctors in recognizing major dental-related issues. The majority of these positions (16 positions) are court ordered and were administratively established in the current year and funded with salary savings. These positions are required to provide leadership for the Inmate Dental Services Program and ensure statewide compliance with the *Perez* stipulated agreement.

The remaining three positions are to establish a Dental Authorization Review committee that verifies the eligibility of outside dental care for inmates. Currently, this review is being done by medical personnel that do not have dental expertise.

Staff Comments. Staff finds that the department is currently implementing a policy that requires that an inmate have a clear dental record before he or she can enter certain programs. For example, a recent article in the San Jose Mercury News indicated that some inmates may be disqualified from entering certain programs that allow mothers and infants to stay together even if the mother has one bad tooth. Staff finds that this policy may unduly restrict the inmate's ability to participate in important rehabilitation programs. Furthermore, staff finds that coordination and case management could help to reduce or all together avoid situations where inmates have to choose between dental care and entering a rehabilitation program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request the department to provide information about its current policies that require clear dental records before they can participate in certain rehabilitation programs.

Other Issues

1. Cell Modifications—Technical Adjustment

Finance Letter. A Finance Letter (dated April 1, 2008) proposes technical adjustments to reduce funding by $23.1 million in the budget year. These funds were added to the budget for one-time replacement of electromechanical security door operating and locking systems and administrative segregation unit cell modifications required for suicide prevention in the 2007 Budget Act. These funds were inadvertently included in the proposed budget. This proposal would correct this error.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

2. Executive Exempt Positions

Background. The CDCR has established several new exempt positions over the past year to provide additional leadership in various areas. The CDCR was criticized by the perceived lack of leadership last year in hearings of this Subcommittee and in discussions related to Chapter 7, Statutes of 2007 (AB 900, Solorio).

Furthermore, pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero) various departments that had previously reported to the Youth and Adult Correctional Agency were consolidated into the present CDCR. This reorganization has lead to various changes in the organizational chart of CDCR.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes trailer bill language to establish the following exempt positions that require Senate Confirmation:

- Undersecretary of Adult Programs.
- Chief Deputy Secretary for Facility Planning, Construction and Management.
- Chief Deputy Secretary for Correctional Health Care Services.
- Director for Division of Addiction and Recovery Services.
- Director for Correctional Health Care Services.

Staff Comments. Staff finds that the reorganization significantly changed the Board of Corrections by placing the Board (now referred to as the Corrections Standards Authority) under the umbrella of CDCR. Staff finds that generally the CDCR reorganization attempted to make the state's various corrections-related entities more coordinated so that the state would be better able to develop a more cohesive system of corrections and public safety.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Finance Letter proposal.
- Approve additional trailer bill language to make the appointment of the Executive Director of the Corrections Standards Authority a position that is confirmed by the State Senate.

3. Prisoner Reentry Initiative – Federal Grant

Background. In September 2006, CDCR was awarded a $1.8 million grant from the U.S. Department of Justice to provide assessment and planning support for non-violent offenders reintegrating into society as part of the Prisoner Reentry Initiative (PRI) Demonstration Grant Program. The department is currently working with four non-profit agencies in Oakland, Sacramento, Fresno, and San Diego to coordinate these services as required by the grant. This grant is set to expire on June 30, 2008, but because of delays by the federal government the department has applied and received conditional approval to extend this grant until June 30, 2009. The department estimates that it will have expended $700,000 of this grant by the end of the current fiscal year.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes $1.4 million in federal funding to continue the PRI grant received in 2006 and to pursue a new PRI grant funded program in Los Angeles County. Specifically, $1.1 million is for the four projects already underway as part of the PRI grant received in 2006. These funds will support two positions and grant funds for the selected non-profit agencies. The remaining $300,000 is to support a new PRI grant-funded program in Los Angeles County. These monies will support two positions and provide grant funds to a selected non-profit community organization.

Staff Comments. Staff finds that these PRI programs are being implemented consistent with the department's implementation of the California Logic Model that was discussed at the April 21 Subcommittee hearing.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

4. *Armstrong* Lawsuit Compliance

Background. The *Armstrong* lawsuit is a class action lawsuit alleging that CDCR is in violation of the 1990 Americans with Disabilities Act (ADA). It alleged that CDCR and the Board of Parole Hearings (BPH) violated provisions of ADA, Section 504 of the Rehabilitation Act, and the U.S. Constitution. The CDCR was specifically charged with not providing disabled inmates/parolees with equal opportunity to participate in various programs, services, or activities available to non-disabled offenders. The BPH was also charged with not providing disabled inmates/parolees with reasonable accommodation to access and effectively participate in BPH hearings.

In 1996 the CDCR settled the *Armstrong* case related to access to programs and services for offenders with disabilities and in 1999 the same court found the BPH liable. Another lawsuit dealing with developmentally disabled inmates and parolees called the *Clark* lawsuit was merged into the Armstrong lawsuit in 1997. Armstrong Remedial Plans were subsequently negotiated with the plaintiffs in the cases and the department has been working to implement the remedial plan since that time.

In May 2006 the plaintiffs filed a motion with the court to enforce compliance alleging that the department had still not implemented the Armstrong Remedial Plans and was still in violation of ADA and the U.S. Constitution. Since then the court has issued several orders directing CDCR to come into compliance with the remedial plans.

Previous Funding *Armstrong* Lawsuit Compliance. The state has added a total of $22.9 million since the 2000-01 fiscal year to address the concerns identified in the *Armstrong* lawsuit and implement the Armstrong Remedial Plans.

Current Year Funding. The Governor's budget and a Finance Letter (dated April 1, 2008) requests $6.4 million General Fund in the current year to comply with the *Armstrong* lawsuit. The proposed current year expenditures are mainly related to information technology upgrades that will provide additional CDCR staff with access to the Disability and Effective Communication System (DECS) computer system that tracks information about inmates with disabilities. The majority of the funding ($5.5 million) requested in the current year is for the one-time purchase of computer equipment to ensure CDCR staff have access to the DECS system and to implement limited-term projects to gather information about local jail facilities and community facilities to develop an ADA compliant program for disabled parole violators.

Armstrong Funding Request, April Letter Revision *(In Thousands)*	**Current Year**		**Budget Year**	
	Pos.	**$**	**Pos.**	**$**
Office of Court Compliance. Positions to establish a permanent self-monitoring, oversight and program compliance program. Includes funding to support travel ($25,000).	0	$0	3	$404
Adult Parole Operations. Four parole agents to serve as ADA regional coordinators that will ensure compliance with DECS system and two analyst positions to track information and provide analytical reports necessary to ensure compliance. Funding also includes one-time computer training and ADA/DECS training ($1.8 million).	0	0	6	2,642

Adult Institutions. Two Correctional Counselors to form multi-disciplinary teams with facility operations to survey county jails and community programs for ADA compliance to develop a program to ensure accommodation of disabled offenders housed in county jails and community programs. Also includes one-time funding for durable medical equipment and appliance bags ($239,000). Also includes on-going funding for annual ADA training for ADA coordinators at the institutions and a wheelchair maintenance contract ($160,000).	2	84	2	618
Audit and Compliance. Six positions to provide ongoing funding to conduct audits to improve compliance with ADA and the *Armstrong* lawsuit.	0	0	6	811
Facilities Management. Two architectural assistant positions to form the other half of the multi-disciplinary teams with adult institutions to survey county jails and community programs for ADA compliance to develop a program to ensure accommodation of disabled offenders housed in county jails and community programs. Also inlcudes ongoing funding for ADA related maintenance and repairs ($1.9 million) and one-time funding to repair or replace path of travel to comply with ADA ($3.7 million).	2	94	2	5,764
Transportation. Funding to support the purchase of a new ADA-compliant vehicle and funding for ongoing maintenance.	0	0	0	75
Information Technology. Funding for 18 positions (four limited-term positions) to ensure that all staff have the connectivity needed to operate the DECS information technology system. Also includes one-time funding for computer equipment and software.	18	6,180	18	3,815
Total	**22**	**$6,358**	**37**	**$14,129**

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) proposal requests $14 million in the budget year to comply with the *Armstrong* lawsuit. The budget year expenditures would support a variety of efforts to help the state to comply with recent court orders and directives made by the *Armstrong* court. These efforts are listed in the table above.

Of the total funding requested in the budget year, $8.1 million is one-time to support ADA upgrades at the prisons, information technology equipment, and to implement training related to the DECS system.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal and the revisions proposed in the Finance Letter.

5. Lawsuit Compliance – Condemned Inmates

Background. An order issued by the courts in June 2007, referred to as the *Lancaster* order finds that CDCR is in violation of a Consent Decree in the *Thompson* lawsuit that all Grade A condemned inmates be afforded the opportunity to participate in art hobby craft. The order allows CDCR to determine how it will remedy this violation.

Governor's Budget. The Governor's budget proposes $118,000 to support two positions to coordinate delivering and ordering supplies, picking up completed projects, responding to inmate questions, and supervising inmates assigned to the hobby program and shop. This augmentation will allow for one position for every 90 inmates and will enable one visit per week.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget request.

6. Lead and Mold Management

Background. In September 2007 CDCR identified high levels of lead and mold in dust buildup within several inmate housing units at San Quentin State Prison. The department requested emergency funding to start decontamination of the housing units. This included cleaning and relocating condemned inmate property located on the top floor of the East Block housing unit. The department indicates that because of the age and the deteriorated state of many of its properties it is likely that there are other facilities with lead and mold issues. The department does not currently have a program for assessing these hazards and developing remedies that will reduce unsafe exposure to staff and inmates.

Current Year Funding. A Finance Letter (dated October 30, 2007) requested $4.8 million in the current year be allocated pursuant to Provision 6 of Item 9840 to remediate high levels of lead and mold found to be present in several inmate housing units at San Quentin State Prison. The majority of this money ($4.3 million) was for abatement of the situation at San Quentin.

Governor's Budget. The Governor's budget proposal includes $1.5 million General Fund to support seven positions and support one-time funding for cleaning equipment and an engineering study. Specifically, the department requests the following:

- **San Quentin Issues**. $933,000 to support two ongoing facility operations positions to provide overall monitoring and general housekeeping to the housing units on a three-year cleaning schedule. The majority of the funding is for one-time cleaning equipment, training in hazardous materials, and an engineering study to determine the best way for cleaning the housing units without impacting the operation of the unit. The funding will also be used to purchase and install a modular unit to relocate condemned inmate property currently housed in an area of the institution that does not meet fire, life, safety requirements.

- **Statewide Program.** $558,000 to support five ongoing positions to identify environmental hazards and develop appropriate and timely remediation actions to improve organizational effectiveness and provide a safer environment for staff and inmates.

Staff Comments. Staff finds that establishing a statewide program should help the department to be more proactive in identifying and addressing problems before they become major safety problems.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

Other Capital Outlay

1. Statewide Project Planning

Background. The department manages a significant number of facilities. Most of these facilities are old and decaying. This requires constant efforts by the department to ensure that the state's correctional system is maintained and can be fully utilized. Furthermore, Chapter 7, Statutes of 2007 (AB 900, Solorio) was passed last year to authorize the department to construct up to 40,000 new prison beds. Subsequent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) required that capital outlay budget packages be submitted to the Legislature for projects funded by AB 900.

Funding to support the advanced planning required to complete capital outlay budget packages was not included in AB 900 or in SB 81. This is especially problematic in the case of the re-entry facilities since the state has not built this type of facility before. While many of these pre-planning activities would be eligible for reimbursement once the lease-revenue bonds were issued, the department did not have sufficient dedicated resources to support the pre-planning work. Therefore, the department, after notification to legislative staff redirected, $6.5 million of the General Fund appropriated in AB 900 for infrastructure upgrades.

Governor's Budget and Finance Letter. The Governor's budget proposal includes $3 million General Fund for advanced planning and budget packages for future capital outlay projects. This is $1 million more than is allocated in the current year for pre-planning activities. The budget also proposes to amend budget bill language to allow these funds to be used to support advanced planning for projects authorized by AB 900.

The Governor's budget also includes proposed trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals for projects authorized by AB 900 should be reimbursable from AB 900 lease-revenue bond funding.

A Finance Letter (dated April 1, 2008) requests $6 million General Fund for site investigation and real estate due diligence activities required prior to site selection and acquisition of re-entry facility properties. The Finance Letter also includes budget bill language to authorize the department to enter into agreements for the acquisition of an option to purchase real property with the approval of the State Public Works Board.

LAO Recommendation. The LAO recommends that the Legislature approve the trailer bill language proposed by the Governor to clarify that pre-planning activities required to develop detailed capital outlay budget packages be reimbursable from AB 900 lease-revenue bond financing. The LAO finds that the lack of dedicated funding for this purpose has delayed the development of the infill bed plan.

Staff Comments. Staff finds that the department did not submit regular capital outlay budget packages for the projects approved in AB 900. However, subsequent legislation (SB 81, Budget) requires the department to develop these budget packages thereby allowing for some level of legislative oversight. Staff concurs that the department was not provided with sufficient funding to support the development of capital outlay budget packages for the projects contemplated in AB 900. Staff finds that the small investment in planning and project development could save the state million of dollars that could be wasted on more costly and poorly planned projects.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the $3 million for advanced planning and budget packages for future capital outlay projects and budget bill language to allow these funds to be used for developing AB 900-funded projects.
- Approve trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals for projects authorized by AB 900 should be reimbursable from AB 900 lease-revenue financing.
- Approve the $6 million for re-entry due diligence activities and the proposed budget bill language.

2. Solid Cell Fronts

Background. In order to improve the safety of staff, the department started an effort to retrofit old administrative segregation units with open barred cell fronts and cell doors to a solid cell front design. The solid cell front design reduces the opportunity for gassing or spearing attacks by inmates upon staff.

Governor's Budget. The Governor's budget proposal includes funding for an ongoing project to replace the bar construction of cell fronts in the Administrative Segregation Units with solid cell fronts. This modification will also require modifications to the heating/ventilation system and utilities. The budget includes funding for the following conversions:

- **Correctional Training Facility.** The Governor's budget proposal includes $498,000 General Fund for working drawings to convert 144 cells.

  The Legislature appropriated $405,000 General Fund to support this project in the 2007 Budget Act. The total estimated project cost is $7 million or $48,600 per cell to convert these cells.

- **California Medical Facility.** The Governor's budget proposal includes $6.7 million General Fund for construction costs to convert 132 cells.

  The Legislature has appropriated $759,000 General Fund since the 2005 Budget Act to support planning for this conversion. Construction funds were proposed in the current year, but the project was not started. The total estimated project cost is $7.4 million or $56,000 per cell to convert these cells.

Staff Recommendation. Staff recommends that the Subcommittee approve the funding to continue with these conversions.

3. Folsom State Prison – Officers and Guards Building

Background. In 2002, the department completed a $2.5 million seismic retrofit of the historic Officers and Guards Building at Folsom State Prison. Further modifications are needed to this building before it can be used as office space. The Officer and Guards Building is outside of the secure perimeter of the prison.

Folsom State Prison currently lacks adequate space to accommodate the additional clinical staff hired to meet health care mandates by the federal courts. The department plans to move some of its administrative staff to the newly remodeled historic Officers and Guards Building outside of the secure perimeter, thereby making room for additional clinical staff in the administration building that is within the secure perimeter of the prison.

Governor's Budget and Finance Letter. The Governor's budget proposal includes $6.3 million General Fund for construction costs associated with converting the historic Officers and Guards Building at Folsom State Prison into office space for prison administrative staff and inmate records personnel. A Finance Letter (dated May 1, 2008) proposes to switch the funding for this project from the General Fund to lease revenue bond financing. The Finance Letter also proposes increasing total construction costs by $493,000 to reflect higher site work and materials costs.

The Legislature has appropriated $780,000 General Fund since the 2006 Budget Act to support planning for this remodel. The total estimated project cost is $7.5 million.

Staff Comments. Staff finds that this project will provide for additional space in the current administration building within the secure perimeter that can be converted to health care space. This should reduce the need to build additional space to meet health care space needs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget and Finance Letter proposal.

4. Folsom State Prison – Renovate Electrical System

Background. Building #5 at Folsom State Prison was constructed in 1880 and is one of the oldest housing units in the prison system. The housing unit has 322 cells and was wired for electricity approximately 57 years ago. Since the housing unit is stone masonry construction, the wiring is, for the most part, exposed in the cells. The department indicates that the exposed wiring poses a fire, life, and safety risk for the inmates and staff. In addition, the exposed wiring also creates a security issue because inmates are able to easily manipulate the fixtures to create primitive heating equipment. This tampering reduces the reliability of the entire system and over the past three years there have been over 400 work orders to repair the wiring system.

Governor's Budget. The Governor's budget proposal includes $1.9 million General Fund to support working drawings ($158,000) and the construction ($1.7 million) costs to remove and upgrade the current wiring system in Building #5 at Folsom State Prison.

This project has started and stopped many times since 1999. To date, the Legislature has appropriated $34,000 to support planning efforts for this project. The total estimated project cost is $1.9 million.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

5. Minor Capital Outlay

Governor's Budget. The Governor's budget proposal includes $7.5 million General Fund. The department has not put forward specific details on the projects to be funded with these monies.

Staff Comments. Staff finds that there are many facility needs in the prison system. However, staff notes that this Subcommittee had considerable concerns last year about the lack of information provided by the department on the projects proposed for funding as minor capital outlay projects. The department has indicated to staff that it is working on proposals and will be providing them to the Legislature soon.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

6. California Rehabilitation Center – Replace Dorms

Background. There are 28 100-bed dorms at the California Rehabilitation Center. These dorms were originally constructed in the 1940s by the Navy as temporary hospital wards. These buildings are wood construction and are seriously deteriorated. For example, the bathroom floors are rotting, the plumbing is worn out, and the buildings contain significant levels of asbestos.

The department has proposed to replace all 28 of these dorms over a number of years with 16 200-bed prototypical emergency bed dorm housing units. This plan would provide the department with 400 additional dorm beds.

Governor's Budget and Finance Letter. The Governor's budget proposes $15.3 million General Fund to support the construction ($15 million) of four new 200-bed dorm housing units and the working drawings ($343,000) to construct three additional 200-bed dorm housing units. A Finance Letter (dated May 1, 2008) proposes to delete the General Fund support for construction of this project and instead switch funding for construction of this project to lease revenue bond financing.

This multi-phase project was started in 1998 and to date the Legislature has appropriated $9 million to develop preliminary plans for all phases, working drawings for the construction of the first five dorm housing units, and construction of the first 200-bed dorm housing unit. The total estimated project cost is $67.7 million. This project will augment the department's bed capacity by 400 additional dorm beds.

Staff Comments. Staff finds that these facilities are badly deteriorated and pose health and safety issues for the inmates and staff. These dorm projects are similar to some of the projects proposed for funding under Chapter 7, Statutes of 2007 (AB 900, Solorio). However, they are not being constructed with the programming space and health care space needed to comply with AB 900 and court mandates.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this item open.
- Request that the department report back to the Subcommittee on what programming space would be needed to make this facility compliant with AB 900.

7. Ironwood State Prison – Ventilation System

Background. In the late 1980s and early 1990s the state built four prisons in the remote areas of Imperial County near Blythe and El Centro. Two of these prisons were constructed with an evaporative cooling system that prematurely deteriorated. The department reports that the evaporative cooling systems installed were undersized and were not well adapted to the extreme temperatures in this area of the state. Furthermore, the systems are located on the roofs of the housing units and have leaked and caused extensive damage to the roof and walls of the housing units, which could compromise the structural integrity of the building. Finally, the cooling units are not designed to generate enough air flow, which regularly results in housing unit temperatures in the summer that are well over the CDCR guideline of 92 degrees Fahrenheit.

The CDCR has replaced the evaporative cooling systems with closed looped chilled water heating, ventilation, and air conditioning systems at Chuckawalla Valley State Prison. Ironwood State Prison still has the old evaporative cooling system.

Governor's Budget. The Governor's budget proposal includes $5.8 million General Fund to support the preliminary plans to replace the existing evaporative cooling system with closed looped chilled water heating, ventilation, and air conditioning systems for all housing units and support buildings at Ironwood State Prison.

The total estimated project cost is $145 million.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

8. California Men's Colony – Kitchen Replacement

Background. The kitchen at the West facility of the California Men's Colony was constructed in the 1940s using wood construction. Surveys by engineering firms in 1992 and 1995 found significant water damage had compromised the structure because of the wood construction and the years of use. In addition, two surveys conducted in 2006 found moderate to severe mold infestation in the kitchen and the dining areas. To date, some rooms in the kitchen have been sealed off and are no longer in use because of the high concentration of mold. The department also has indicated that over 25 percent of the floor area is severely affected by water damage.

The West facility currently houses 2,800 Level I and Level II inmates. Inmates have been housed in this facility continuously since 1984 without any major modifications to improve the kitchen facility.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes to revert $10.3 million in lease-revenue bonds allocated in the current year for construction of this project. The letter also requests that $15.3 million in lease-revenue bonds in the budget year to augment funding for working drawings ($992,000) and increased construction ($14.3 million) costs. The department indicates that the additional funding is needed to update the working drawings that were originally completed in 1999 and proceed to construction.

The Legislature has allocated $789,000 since 1998 for this project, which has been delayed several times. The total estimated project cost is $16.1 million.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter.

9. Waste Water Treatment Plant Upgrades

Background. Overcrowding at the adult institutions has significantly impacted existing infrastructure systems, most notably, wastewater systems. These systems are often required to operate at or above the maximum intended capacity, resulting in an increased health and safety risk to CDCR staff, inmates, the public, and the environment. Overcrowding the prison sewage and wastewater systems has caused the discharge of waste beyond treatment capacity, resulting in sewage spills and environmental contamination. These spills can contaminate groundwater drinking supplies and place the public's health at risk. Furthermore, the department's wastewater issues have already resulted in multiple fines, penalties, and notices of violation to the CDCR from environmental control agencies (mainly the Regional Water Quality Control Boards).

Current Year Projects. The department has submitted letters to the Joint Legislative Budget Committee in 2007 to fund two Waste Water Treatment Plant (WWTP) projects from the General Fund support allocated in Chapter 7, Statutes of 2007 (AB 900, Solorio). These projects are as follows:

- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** The department requested to allocate $6.1 million for construction of numerous upgrades to the WWTP that serves both of these prisons.

  Lease-revenue bond financing was provided to support this project in the 2007 Budget Act. The Governor vetoed the lease-revenue bond funding because the nature of the project made it difficult to finance with lease-revenue bonds. The veto message directed that the department fund this project out of the General Fund appropriation provided in AB 900 for infrastructure.

  This project was started in 2005 and $554,000 was allocated from the General Fund to plan for this project. The total estimated project cost is $6.1 million.

- **Centinela State Prison.** The department requested to allocate $6.5 million for construction of various upgrades to the WWTP at this prison.

  Lease-revenue bond financing was provided to support this project in the 2007 Budget Act. The Governor vetoed the lease-revenue bond funding because the nature of the project made it difficult to finance with lease-revenue bonds. The veto message directed that the department fund this project out of the General Fund appropriation provided in AB 900 for infrastructure.

  This project was started in 2005 and $988,000 was allocated from the General Fund to plan for this project. The total estimated project cost is $7.5 million.

The department also submitted a letter to the Joint Legislative Budget Committee in 2007 to request that $15.9 million from the General Fund allocation contained in AB 900 be allocated to implementing water conservation devices at 15 institutions. The department estimates that over 25,000 cells would be retrofitted by this effort and would improve water use efficiency and reduce the strain on the department's WWTP infrastructure.

Governor's Budget and Finance Letters. The Governor's budget proposal and Finance Letter (dated April 1, 2008 and May 1, 2008) propose funding for the following Waste Water Treatment Plant (WWTP) upgrades:

- **Chuckawalla Valley State Prison/Ironwood State Prison.** The Governor's budget proposal includes $23 million General Fund for construction costs to rehabilitate the WWTP that serves both of these prisons. The scope of this project was changed considerably in 2007 to comply with requirements of the Colorado River Basin Regional Water Quality Control Board. The project now entails rehabilitating two trickling filters, paving portions of sludge drying beds, constructing a solid storage pad, and replacing pumps.

The Finance Letter proposes to increase the amount provided for construction by $2.3 million. The increased costs reflect a more detailed scope and schedule obtained during the recent completion of preliminary plans.

Funding this project will prevent future violations and the potential issuance of a Cease and Desist Order from the Colorado River Basin Regional Water Quality Control Board. This project was started in 2006 and $1.7 million has been appropriated by the Legislature in past budgets to plan for this project. The total estimated project cost is $24.7 million.

- **Mule Creek State Prison.** The Governor's budget proposal includes $542,000 General Fund to support working drawings to make numerous upgrades to the WWTP at this prison. This project includes constructing a secondary clarifier, a mixed splitter box, a chlorine contact basin, and a disinfected secondary effluent pump station. A Finance Letter (dated April 18, 2008) requests a scope change to this project to add a staff facilities building to the project necessary to provide a hygienic office environment for plant operations staff.

  This prison was issued a Notice of Violation by the Regional Water Quality Control Board in September 2006 and a Cease and Desist order in December 2006 outlining various violations. This project was started in 2007 and $390,000 was allocated for preliminary plans. Total costs for this project are estimated to be $6.6 million.

- **California Rehabilitation Center.** The Governor's budget proposal includes $113,000 General Fund for preliminary plans and working drawings to install a bar screen and two chopper pumps in the sewer discharge line at the California Rehabilitation Center.

  This prison was issued a Consent Order by the Santa Ana Watershed Project Authority in January 2007 for exceeding discharge limits. The department has already paid over $350,000 in fees over the last year because of these violations. Total costs for this project are estimated to be $949,000.

- **California Correctional Institution.** A Finance Letter (dated May 1, 2008) proposes to reappropriate $19.6 million in lease-revenue bonds for construction costs related to major upgrades of the WWTP at this prison. Funding for this project was first allocated in 1997-98. The department indicates that there have been protracted negotiations with the local water district, which have delayed this project. The department reports that this matter has now been settled and the project is ready to proceed to construction.

  Total costs for this project are estimated to be $29.5 million. Of this total, $28.3 million is for construction.

- **Wasco State Prison.** A Finance Letter (dated May 1, 2008) proposes to reappropriate $671,000 General Fund to complete construction of the pre-screening facility at the

WWTP at this prison. This facility will remove large fabric and plastic debris from the wastewater flow before it can get caught in the wastewater pumps. This project is scheduled to be completed in May 2008, but additional expenditure authority is needed in the budget year to complete payments for the project.

This project was started in 2001 and $1.5 million has been allocated to complete the project. This project was completed with inmate labor.

Water Use Efficiency Important. Staff finds that implementing water use efficiencies can be more cost effective than expanding WWTP facilities. Staff finds that the department has allocated some of the funding provided in AB 900 to implement water conservation devices. However, given the overall magnitude of the overcrowding at some of these institutions, staff finds that water use efficiency will not meet all of the needs of the department. Nevertheless, staff finds that the department should have a policy of pursuing all water use efficiency options before taking efforts to greatly expand an institution's WWTP.

Staff Recommendations. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposals and Finance Letter proposals.
- Approve supplemental report language that directs the department to develop and put forward options for improving its water use efficiency as an addendum to its 2009 Master Plan.

10. Sierra Conservation Center - Water Supply Treatment Plant

Background. The Sierra Conservation Center is located in the Sierra Nevada foothills near the town of Sonora. The center pre-treats raw water from Lake Tulloch for all uses at the center, including drinking, showering, toilets, and kitchen uses. The current system is inadequate when water turbidity is high and does not meet Department of Health Services primary drinking water standards.

Governor's Budget. The Governor's budget proposal requests $2.6 million General Fund to support construction of a filtration structure for the water supply treatment plant at the Sierra Conservation Center.

This project was started in 2006 and $313,000 has been allocated to plan for this project. The total costs for this project are estimated to be $2.9 million.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

11. California Rehabilitation Center – Potable Water System Improvements

Background. The facility now called the California Rehabilitation Center was originally constructed in 1928 and was later used as a temporary Naval hospital during World War II and the Korean War. It was converted to the California Rehabilitation Center in the 1980s. Given the age of the facility its potable water delivery system for this facility has deteriorated.

Finance Letter. A Finance Letter (dated May 1, 2008) proposes reversion of $1.7 million General Fund that is no longer needed to support a new connection to the City of Norco's water system. The department started to plan for this transition in 2001. However, the connection was delayed pending negotiations with the City of Norco regarding water connection fees to the city water system. The City has recently agreed to provide water connection at no charge to the department, in part because the department funds the city water system.

This project was started in 2001 and $228,000 has been allocated and expended to plan for this project.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

Coleman Ordered Mental Health Capital Outlay

Background. The Special Master and the court overseeing the settlement of the *Coleman* lawsuit have taken a multi-pronged effort to improve mental health care facilities within the department. The court has pursued interim and temporary measures to improve mental health care facilities in the short-term. Many of these short-term efforts have already been implemented or are currently being constructed.

However, the department has also been working on a long-term Mental Health Bed Plan that will provide a plan for permanent mental health bed capacity that will provide various levels of care. The court adopted the August 2007 version of the department's bed plan in October 2007. This plan expects the following permanent mental health bed capacity to meet the projected mental health population for June 2011:

Expected Permanent Mental Health Bed Capacity by Type of Bed	**Number of Beds** Female	Male	Total
Enhanced Outpatient Program - Long-term beds for EOP inmates that require significant services to function well.	297	4,552	4,849
Mental Health Crisis Beds - Short-term licensed beds for inmates in mental health crisis that need intensive 24-hour care. Length of stay not to exceed 10 days generally.	25	347	372
Acute - Short-term licensed beds for inmates that require 24-hour mental health treatment to prevent danger to themselves and others. The average length of stay at this level is two to three months.	42	240	282
Intermediate Care Facility - Longer-term licensed beds for inmates that need intensive mental health care services. Length of stay not to exceed nine months.		314	314
Intermediate Care Facility - High Custody - Same as above, but for high custody inmates.		312	312
Administrative Segregation Unit - Housing units for temporary segregation of EOP inmates that are pending investigations, evaluation, and/or disciplinary action. Similar to regular ASU, but with space to deliver treatment services.	24	752	776
Psychiatric Services Unit - Housing units for EOP inmates that have been found guilty of an offense committed in the institution, or have been deemed to be a threat to the safety of others or the security of the institution. Similar to Security Housing Units (SHU), but with space to deliver treatment services.	20	576	596
Total	**408**	**7,093**	**7,501**

The department currently operates some mental health beds that it will continue to operate under this plan. The department also plans to vacate 1,552 existing mental health beds that can be converted to other uses. However, in order to meet the requirements of this bed plan, the department will also need to construct new mental health facilities with the following beds:

New Mental Health Beds to Be Constructed by Type of Bed	**Number of Beds** Female	Male	Total
Enhanced Outpatient Program	168	2,532	2,700
Mental Health Crisis Beds	3	110	113
Acute	17	90	107
Intermediate Care Facility		230	230
Intermediate Care Facility - High Custody		120	120
Administrative Segregation Unit	15	453	468
Psychiatric Services Unit		256	256
Total	**203**	**3,791**	**3,994**

Consolidated Care Centers. In December 2007 the judges in the *Plata, Coleman, Perez,* and *Armstrong* lawsuits approved an agreement to coordinate compliance efforts required in each of these lawsuits. The Receiver appointed in the *Plata* case has been designated as the lead in developing and overseeing the implementation of a construction plan that will satisfy the four lawsuits. At the April 14 meeting of this Subcommittee, we heard testimony from the Receiver on his plans to construct up to 10,000 infill beds to satisfy the housing needs of the inmate patient classes represented in the four lawsuits. These beds would be constructed in consolidated care centers at seven different locations located adjacent to urban centers.

This plan contains up to 5,000 beds for patients with mental health conditions, including:

- **Enhanced Outpatient Program – Regular.** 68 percent or 3,400 open dorm beds for enhanced outpatient program inmate-patients.
- **Enhanced Outpatient Program – High Custody.** 18 percent or 900 beds for high-custody enhanced outpatient program inmate-patients.
- **Other Crisis-Type Beds.** 14 percent or 700 other beds that will be a mix of mental health crisis beds, acute beds, an intermediate care facility, and a high custody intermediate care facility.

The plan presented to the Subcommittee on April 14 appears to differ from the plan contained in the Mental Health Bed Plan adopted by the *Coleman* court in October 2007.

Bed Construction Projects Ordered Before Approved Bed Plan. In addition to the beds in the approved Mental Health Bed Plan, the department is also pursuing additional projects that would add additional bed capacity that were directed by separate orders by the *Coleman* court. However, the department has indicated that there still may be some changes to these projects. These projects include:

- 20-bed Psychiatric Services Unit at the **California Institution for Women** – in the planning stage, funding for working drawings proposed in budget.
- 45-bed Acute/Intermediate Care Facility at the **California Institution for Women** – department will pursue this project with $62 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 50 Mental Health Crisis Beds at **California Men's Colony –** department will pursue this project with $59 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 50 Mental Health Crisis Beds at the **California Medical Facility** – construction for this project is complete.
- 64-bed Intermediate Care Facility at the **California Medical Facility** – department will pursue this project with $55 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- Program space to support 150-bed Enhanced Outpatient Program Unit at **California State Prison, Los Angeles County –** department will pursue this project with $11 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 64-bed Intermediate Care Facility at **Salinas Valley State Prison** – construction has started on this facility.
- 70-bed Enhanced Outpatient Program Administrative Segregation Unit at **Salinas Valley State Prison –** department will pursue this project with $52 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.

The department estimates that the projects listed above will use $240 million of the $857 million included in AB 900 for medical and mental health beds. The Legislature also allocated $146 million of this funding to support the Receiver's San Quentin project in the current year.

A court order issued in February 2008 by the *Coleman* court confirmed that the coordinated construction agreement for the long-term projects did not relieve the state of their obligation to comply with prior court orders to construct the projects listed above.

Other Capital Outlay Projects. The department is also pursuing several other capital outlay projects to comply with the *Coleman* court. These projects range from renovating administrative segregation unit intake cells to adding additional program and office space to support the mental health programs required under the *Coleman* lawsuit. These projects were funded as minor capital outlay projects, special repair projects, or through prior budget requests and they are all listed in a report in the department's master plan. This report was required by supplemental report language added by the Legislature in 2007 that required a comprehensive listing of all physical plant modifications completed and planned to comply with the *Coleman* lawsuit.

1. California Institution for Women

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) requests funding to convert the east wing of the Women Support Care Unit at the

California Institution for Women to a 20-bed Psychiatric Services Unit (PSU). The Governor's budget proposal includes $601,000 General Fund for working drawings to build this new unit. The Finance Letter requests an additional $64,000 for preliminary plans and $82,000 for working drawings to complete the planning for this project. The increased costs are a result of adding additional office and treatment space to the project scope for staff to support the PSU.

The Legislature appropriated $423,000 General Fund to support this project in the 2007 Budget Act. The total estimated project cost is $7 million or $350,000 per bed to convert these beds. This project was court-ordered in March 2007 by the *Coleman* court.

Staff Comments. Staff finds that this project has been specifically ordered by the court. The LAO finds that the department has decided to pursue a project that renovates existing beds, thereby reducing capacity. The LAO notes that one of the alternative projects would add additional capacity and would only be marginally more expensive. The LAO finds that it may be more cost-effective to spend more on the margin to increase bed capacity as opposed to reducing capacity as proposed in the budget.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

2. Salinas Valley State Prison

Finance Letter. A Finance Letter (dated April 1, 2008) proposed funding to support two *Coleman*-related projects at the Salinas Valley State Prison. These projects include the following:

- **Treatment and Office Space to Support 180-Bed Enhanced Outpatient Program.** The Finance Letter includes $1.7 million General Fund to support preliminary planning efforts to add additional treatment and office space to convert an EOP administrative segregation unit to a 180-bed general population EOP unit. This EOP housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court. The EOP administrative segregation inmates currently in this facility will be transferred to a new 70-bed EOP administrative segregation facility that is being completed as part of the approved mental health bed plan.

  The total estimated project cost is $21.8 million to support the treatment and office space needed to support these beds.

- **Intermediate Care Facility Treatment Space.** The Finance letter includes $399,000 General Fund to support preliminary plans and working drawings to convert existing unused dining room space into group therapy space to support the 128-bed Intermediate Care Facility at the prison. This ICF housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court.

  The total estimated project cost is $1.9 million to add the additional treatment and office space needed to support these beds.

Staff Comments. Staff finds that these projects are renovation projects and cannot be funded with lease-revenue bonds. Staff finds that additional treatment space is needed for these units to comply with the *Coleman* lawsuit.

Staff Recommendation. Staff recommends that the Subcommittee approve these Finance Letter proposals.

3. California State Prison, Sacramento

Finance Letter. A Finance Letter (dated April 1, 2008) proposed $1.2 million General Fund to support preliminary plans to convert unused warehouse space to program, treatment, and office space to support an existing 192-bed EOP housing unit at the California State Prison, Sacramento. This housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court.

The total estimated project cost is $15.1 million to renovate the existing warehouse space to provide additional treatment and office space needed to support these beds.

Staff Comments. Staff finds that these projects are renovation projects and cannot be funded with lease-revenue bonds. Staff finds that additional treatment space is needed for these units to comply with the *Coleman* lawsuit.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

Perez Related Dental Care Capital Outlay

Background. In December 2005, the department entered into a Stipulated Agreement to settle the *Perez v. Hickman* lawsuit claiming inadequate dental care in state prisons. This Agreement lowered the ratio of inmates to dentists from 950 inmates to one dentist to 515 inmates to one dentist. Additional treatment space is needed to accommodate this higher level of staffing.

The 2006 Budget Act included $1.7 million General Fund to the department to develop capital outlay plans to add additional dental treatment and office space to implement the *Perez* settlement. In 2007 the Legislature denied $15.1 million General Fund to support preliminary plans for dental and office space at the following seven prisons:

- Avenal State Prison
- Calipatria State Prison
- Centinela State Prison
- Chuckawalla Valley State Prison
- Ironwood State Prison
- Kern Valley State Prison
- Folsom State Prison

These are the first seven institutions where the new lower inmate to dentist ratio is being implemented. The total cost of these projects is estimated to be $285 million and the department's master plan suggests that these projects will be funded out of lease-revenue bond financing authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio).

Coordination Update. Last year the Legislature rejected funding for these dental facilities and added budget bill language to request that the department coordinate its dental facilities planning with the Receiver. Since then, a new Receiver has been appointed and additional details have come forth on the Receiver's facility plans. The Receiver is coordinating construction of 10,000 specialized-care beds at seven different institutions. Each of these centers will be constructed to comply with the *Perez* lawsuit. The Receiver is also planning to upgrade medical facilities at all 33 prisons. However, the Receiver is not planning to make the facility upgrades required by the *Perez* lawsuit at each of the 33 prisons. The department indicates that it is pursuing this upgrade project and will be funding this project with the AB 900 allocation of lease-revenue bonds for medical and mental health beds.

San Quentin Condemned Inmate Complex

Background. The 2003-04 Budget Act authorized $220 million in lease-revenue bonds for the design and construction of a new Condemned Inmate Complex for condemned male inmates at California State Prison, San Quentin. The original project was designed to provide 1,408 beds which were projected to meet the department's condemned inmate population needs through 2037.

However, because of increased costs related to this project, cost containment measures were taken in September 2005 to: (1) eliminate one housing unit, thereby reducing the number of beds by 18 percent; and (2) change the project scope for warehouse and maintenance support space from the construction of freestanding buildings to the conversion of existing dormitory buildings. Even with these cost containment measures, it was recognized that the project had a 6 percent budget deficiency in September 2005. The preliminary plans for this project were approved by the Public Works Board in November 2005.

There are currently 669 condemned inmates at San Quentin. The capacity of the current condemned housing is 634 beds. The new Condemned Inmate Complex would provide 1,152 beds.

Governor's Budget. The Governor's budget proposal includes $136 million in lease-revenue bonds to address additional funding needed to complete construction of the Condemned Inmate Complex at California State Prison, San Quentin.

The total estimated project cost to construct the condemned inmate complex is $356 million or $309,000 per bed.

LAO Finds Project Costs High. The LAO finds that the costs for this project will be nearly triple the costs of comparable housing units constructed at Kern Valley State Prison in 2005. The LAO finds that even after adjusting for higher labor and material costs there are considerable unexplained costs. The LAO notes that other special factors, such as the multi-level design of the project and soil instability may also be contributing to the increased costs. Nevertheless, even after adjusting for these factors, the LAO cannot account for the increased costs.

Environmental Impact Report Caps Population at San Quentin. The department had indicated to the LAO last year that, as part of the Environmental Impact Report that was developed for the Condemned Inmate Complex, the state had agreed to a population cap of 6,558 on the number of inmates that could be housed at San Quentin. The LAO finds that this limit may prevent the department from using all of the cells being vacated with the relocation of the condemned inmate population to a new Condemned Inmate Complex. The LAO estimates that with the new Condemned Inmate Complex San Quentin has a maximum potential capacity of 7,100 inmates.

LAO Recommendation. In the past, the LAO has recommended canceling the Condemned Inmate Complex project at San Quentin and use the remaining funding authorized to build additional prison capacity for condemned and maximum-security inmates at a lower cost per bed elsewhere. This could include: (1) building a new condemned inmate complex at an existing prison or at a new site, or (2) constructing new Level IV capacity and moving condemned inmates to Level IV housing at an existing prison. The LAO indicates that some states house condemned inmates with other Level IV population in a single facility and suggests that this could also be an option.

This year the LAO withholds recommendation on the project until questions about the costs of the project and the impacts of the possible inmate population limits are resolved. The LAO recommends that the department retain an independent outside expert to assess the department's cost estimates for this project. This is similar to the recommendation the LAO made with regard to the infill bed projects authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio).

The LAO also recommends that the department report on the following: (1) the maximum capacity of San Quentin now, including potential overcrowding of the facility; (2) the maximum potential capacity of San Quentin, including potential overcrowding of the facility, if the Condemned Inmate Complex is completed; (3) any specific limits on the inmate population at San Quentin to which the state has agreed as a result of the environmental review process for the Condemned Inmate Complex; (4) the department's rationale for building the Condemned Inmate Complex at San Quentin if in fact that means other existing space at the prison could not be used to hold inmates in the future.

Staff Comments. Staff finds that there was considerable debate regarding moving the Condemned Inmate Complex to an alternative site in 2003 when the project was authorized. A drawback that surfaced during this debate was that moving the condemned population to a remote prison facility would make it more difficult for specialized legal representation to have access to the condemned inmate population. State law allows for automatic appeals and habeas corpus appeals for all condemned inmates.

Furthermore, there would likely be local community opposition to moving the condemned inmate population to any other location in the state.

Staff finds that the Bureau of State Audits was directed in 2007 to conduct an audit of alternatives sites for the condemned inmate complex. This audit is expected to be completed by May 2008.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Wednesday, May 14, 2008
OUTCOMES

Court Appointed Receiver for Medical Care

Health Care Budget—Support

1. Health Care Access Units

Action.

- Approved the Governor's budget proposal and Finance Letter proposal.
- Approved budget bill language to track these expenditures separately to ensure that unspent funds revert to the General Fund.

Vote. 3-0

2. Health Care Guarding and Transportation

Action.

- Approved the Governor's budget proposal and Finance Letter proposal.
- Approved budget bill language to track these expenditures separately to ensure that unspent funds revert to the General Fund.

Vote. 3-0

3. Pharmacy Operations

Action.

- Approved funding for the centralized pharmacy less $1,484,000. **This action will result in $1.5 million in General Fund savings relative to the Governor's proposal.**
- Approved the increased funding for pharmaceutical and medical supplies.
- Approved budget bill language to track expenditures for the central fill pharmacy and the additional pharmaceutical and medical supplies separately to ensure that unspent funds revert to the General Fund.

Vote. 3-0

4. Medical Oversight Program

Action. Approved the Finance Letter request.

Vote. 3-0

5. Health Care Appeals Unit

Action. Approved this budget proposal.

Vote. 2-0 (Kehoe absent)

6. California Prison Health Care Receivership Corp.

Action. Approved funding less $4 million. **This action will result in $4 million in General Fund savings relative to the Governor's proposal.**

Vote. 3-0

5225 California Department of Corrections and Rehabilitation

Division of Correctional Health Care Services

1. *Coleman* Mental Health Staffing

Action.

- Held this issue open.

2. Relocation of Division of Correctional Health Care Services

Action. Approved this budget proposal.

Vote. 3-0

3. Inmate Dental Services Program

Action.

- Held this issue open, pending additional information about current policies that require clear dental records before they can participate in certain rehabilitation programs.

Other Issues

1. Cell Modifications—Technical Adjustment

Action. Approved this Finance Letter proposal.

Vote. 3-0

2. Executive Exempt Positions

Action.

- Approved the Finance Letter proposal.
- Approved additional trailer bill language to make the appointment of the Executive Director of the Corrections Standards Authority a position that is confirmed by the State Senate.

Vote. 3-0

3. Prisoner Reentry Initiative – Federal Grant

Action. Approved this Finance Letter proposal.

Vote. 3-0

4. *Armstrong* Lawsuit Compliance

Action. Approved the budget proposal and the revisions proposed in the Finance Letter.

Vote. 2-0 (Harman absent)

5. Lawsuit Compliance – Condemned Inmates

Action. Approved this budget request.

Vote. 2-0 (Harman absent)

6. Lead and Mold Management

Action. Approved this budget proposal.

Vote. 3-0

Other Capital Outlay

1. Statewide Project Planning

Action.

- Approved the $3 million for advanced planning and budget packages for future capital outlay projects and budget bill language to allow these funds to be used for developing AB 900-funded projects.
- Approved trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals for projects authorized by AB 900 should be reimbursable from AB 900 lease-revenue financing.

Vote. 3-0

- Held open $6 million for re-entry due diligence activities and the proposed budget bill language.

2. Solid Cell Fronts

Action. Approved the funding to continue with these conversions.

Vote. 3-0

3. Folsom State Prison – Officers and Guards Building

Action.

- Approved the Governor's budget and Finance Letter proposal.

Vote. 3-0

4. Folsom State Prison – Renovate Electrical System

Action. Approved this request as proposed.

Vote. 3-0

5. Minor Capital Outlay

Action. Held this issue open.

Vote. 3-0

6. California Rehabilitation Center – Replace Dorms

Action.

- Held this item open and requested that the department report back to the Subcommittee on what programming space would be needed to make this facility compliant with AB 900.

7. Ironwood State Prison – Ventilation System

Action. Approved this budget proposal.

Vote. 3-0

8. California Men's Colony – Kitchen Replacement

Action. Approved this Finance Letter.

Vote. 3-0

9. Waste Water Treatment Plant Upgrades

Action.

- Approved the budget proposals and Finance Letter proposals, except the Chuckawalla Valley State Prison/Ironwood State Prison proposal.
- Approved supplemental report language that directs the department to develop and put forward options for improving its water use efficiency as an addendum to its 2009 Master Plan.

Vote. 3-0

10. Sierra Conservation Center - Water Supply Treatment Plant

Action. Approved this budget proposal.

Vote. 3-0

11. California Rehabilitation Center – Potable Water System Improvements

Action. Approved this Finance Letter proposal.

Vote. 3-0

Coleman Ordered Mental Health Capital Outlay

1. California Institution for Women

Action. Held this issue open.

2. Salinas Valley State Prison

Action. Held this issue open.

3. California State Prison, Sacramento

Action. Approved this Finance Letter proposal.

Vote. 3-0

Perez Related Dental Care Capital Outlay

San Quentin Condemned Inmate Complex

Action. Held this issue open.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

PART A
Wednesday, May 21, 2008
1:30 p.m.
Room 112

(Consultant - Keely Martin Bosler)

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.

0855 California Gambling Control Commission

1. Tribal Gaming Revenues—Informational Item

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee the DOF agreed to report tribal gaming revenues separately in the budget to make them more transparent. The Subcommittee also took action to use funding in the Special Distribution Fund (SDF) to ensure enough funds were available in the Revenue Sharing Trust Fund (RSTF) to make the required payments to each non-compact tribe. This action increased General Fund revenues by $40 million from tribal gaming.

May Revision. The May Revision includes a proposal to take the same action this Subcommittee took on April 9. However, the May Revision also contains an updated tribal gaming revenue estimate that is slightly lower than what was assumed in the January budget proposal. The Governor reports that the new revenue estimate is $6.7 million lower in the current year and $23.7 million lower in the budget year due to the delayed adoption of the Sycuan tribal compact by the Sycuan General Council. Given this development, the action the Subcommittee took on April 9 results in a net increase in General Fund revenues of $16.3 million instead of $40 million.

The updated revenues from the tribal-state compacts are as follows:

- General Fund - $446.7 million.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately $40 million to pay $1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - $49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - $100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

New Compact Signed. On April 28 the Governor signed two related tribal gaming compacts. These compacts have not been ratified by the Legislature. The following is a summary of the compacts:

- **North Fork Mono Rancheria.** The compact would authorize the North Fork Mono Rancheria to operate a gaming facility just north of the city of Madera and authorize the tribe to operate no more than 2,500 slot machines at the facility. This facility is estimated to generate over $25 million annually for the General Fund. The facility will share revenues with the state based on a sliding scale percentage of net win from the operation of the slot machines and the banked card games from 13.5 percent to 22 percent. The facility will also share revenues with the Wiyot Tribe.
- **Wiyot Tribe.** The compact with the Wiyot Tribe would require the tribe to forego its right to game on its tribal lands along Humboldt Bay in exchange for revenue payments from a gaming facility to be operated by the North Fork Mono Rancheria in Madera County. The Wiyot Tribe will receive a sliding scale percentage of the net win from the North Fork Mono Rancheria gaming operation. The Wiyot Tribe is expected to get about

$3 to $5 million annually above the distributions they currently receive from the Revenue Sharing Trust Fund.

2. Gambling Control Fund

Background. The Gambling Control Fund is used to support gambling regulation activities at the Gambling Control Commission and the Department of Justice. Revenues to this fund are from fees and penalties collected from persons operating cardrooms. The Governor's budget estimates that this fund will have a reserve of $14 million in the budget year.

May Revision. The May Revision proposes to loan $10 million from the Gambling Control Fund to the General Fund on a one-time basis. This would leave the fund with approximately $4 million in reserve in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

3. Inspection Program

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee, a proposal to continue $1 million from the Special Distribution Fund for the Gambling Control Commission's electronic gaming device inspection program was rejected. At that time of the hearing, the Legislature had not received a legislatively mandated report on the performance of the GCC's slot machine inspection and testing program.

Electronic Gaming Device Inspection Report. Since the Subcommittee meeting on April 9, staff has received the report on the commission's electronic gaming device inspection program. This report found that of the 1,275 components/software that were tested over 28 percent were obsolete. This means that the manufacturer had issued a newer version of the software and is no longer supporting the old version. The commission points out that obsolete software may not always pose a risk and therefore many not need to be removed from the casino floor. However, during the analysis of the obsolete software the commission staff found that some of the software did pose a risk and the staff made recommendations to have it upgraded or removed.

The commission indicates that it cannot currently document an increase in revenues to the state due to the electronic gaming testing. However, the commission indicates that when electronic gaming devices function improperly because of the use of revoked or obsolete software the devices may not be properly accounting for gaming revenue, which would impact the state's revenue.

Staff Comments. Staff finds that electronic gaming devices are the most important source of revenue in the tribal gaming operations. Given the initial findings of the commission, staff finds that it would ultimately be beneficial to continue the commission's inspection presence.

The LAO finds that the report on the electronic gaming device inspection program has provided the Legislature with useful information about the performance of this inspection program. The

LAO recommends that the reporting requirement be continued so that the Legislature can continue to monitor the performance of this program. Also, the LAO finds that the information contained in the audit report from the commission is useful to the Legislature and that this report should also be continued.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Restore $1 million from the Special Distribution Fund to continue the electronic gaming device inspection program.
- Approve the following supplemental report language recommended by the LAO for the audit program and the electronic gaming inspection program:

  1. Audit Staffing, Workload, Productivity, and Results. *No later than March 1, 2009, the California Gambling Control Commission (CGCC) shall submit to the Legislature updated workload information regarding its audit plan. The information shall include an update of the audit plan including the status of backlogged audits, the updated number of hours to complete an audit, the outcomes of audits completed, the number of audit positions that have been filled and the number of vacancies, and an updated calculation of audit staff needs based on the most recent workload information. Should the administration submit a budget change proposal (BCP) for audit-related programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

  2. Field Inspection and Technical Services (Gaming Device Testing) Programs. *No later than March 1, 2009, CGCC shall submit to the Legislature a report describing the activities of its field inspection and technical services programs including: (a) an updated list of ratified and proposed tribal-state compacts that authorize state testing of gaming devices; (b) relevant measures of productivity by both of the programs (including, but not limited to, the number of devices tested and at how many facilities); (c) descriptions of significant problems discovered with gaming devices as a result of these programs' activities and measures taken to resolve the problems; (d) a measure of state revenues, if any, collected as a result of the programs' activities (including identification of any such revenues that overlap with those listed in the commission's report to the Legislature on audit program results), (e) an evaluation of the programs' workload and whether currently authorized staffing levels are sufficient for the commission to fulfill its responsibilities, and (f) any recommendations to the Legislature on budgetary, statutory, or other changes necessary to allow the commission to operate these programs in a more effective and productive manner. Should the administration submit a BCP related to these programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

1870 Victim Compensation and Government Claims Board

1. Restitution Fund

Previous Subcommittee Direction. At the April 10 meeting of this Subcommittee testimony was heard regarding the Restitution Fund and various programs supported by this fund, including the Witness Protection Program administered by the Department of Justice (DOJ). The Subcommittee held open recommended trailer bill language and budget changes to transfer the administration of the Witness Protection Program from DOJ to the Victim Compensation and Government Claims Board (VCGCB) and require that the board structure the program to maximize federal matching funds.

The Subcommittee also heard testimony about the impending structural imbalance of the Restitution Fund despite a projected reserve in the budget year of $124 million (as estimated by the LAO). In response the Subcommittee took action to reduce support for the Witness Protection Program by $3 million to bring it to its 06-07 funding level and increased federal fund support for the program by $1.8 million to enable federal Victims of Crime Act (VOCA) matching funds. The Subcommittee also approved trailer bill language to increase the local matching requirement from 25 percent to 75 percent to help address structural deficit in the Restitution Fund.

In addition, the Subcommittee requested staff, LAO, DOF, and the Board do the following:

- Develop options for transferring a portion of the reserves in the Restitution Fund to the General Fund on a one-time basis.
- Develop an audit request to explore options for enhancing revenue collections to the Restitution Fund.
- Develop ways to optimize state-local relationships related to victim services through the use of compacts.

May Revision. The May Revision proposes a one-time $50 million transfer to the General Fund from the Restitution Fund. The May Revision also proposes a one-time loan of $30 million to the Emergency Response Account.

Impact of Transfer and Loan. Staff finds that the transfer and the loan would leave the Restitution Fund with approximately $44 million in reserve funds in the budget year. However, staff also notes that this fund is currently expending more funds than it takes in each year so this reserve would be quickly eliminated without other actions to reduce ongoing expenditures from this fund. The Subcommittee has already taken one action reduce the ongoing funding supporting the Witness Protection Program.

The LAO recommended in February that the Legislature had the option of transferring $45 million to the General Fund from the Restitution Fund as a one-time solution. The LAO now recommends approving the Governor's transfer of the $50 million. The LAO also recommends rejecting the Governor's May Revision proposal to loan $30 million to finance fire protection and instead proposes to transfer this money to the General Fund as well. The LAO has an alternative proposal to fund fire protection.

State-Local Compacts. The department has indicated that it may be able to expand its staff at its existing Restitution Centers to develop Joint Powers Authorities with counties that do not currently have Restitution Centers. This would expand the board's presence in counties that currently do not have established Restitution Centers.

Initiative Would Impact Victim Board Programs. At the May 5 meeting of the Subcommittee, testimony was heard about an initiative (Marsy's Law) that would significantly change the way victims are compensated. It would take actions to make collection of restitution the first priority by the courts. However, while this initiative may increase the collection of restitution it would likely reduce revenues to the Restitution Fund because under the initiative victims would be compensated directly at the local level. This would considerably change the nature of the board's programs.

Audit. The Bureau of State Audits is currently conducting an audit of the board's Victim's Compensation Program. However, the LAO finds that this audit will not include an analysis of options to enhance revenue collections to the Restitution Fund. Staff finds that an audit could improve the overall collection of restitution. However, given the changes included in the pending initiative (Marsy's Law) staff finds that an audit may be premature.

Transfer of Witness Protection Program. After further review the LAO finds that the estimated savings and federal match that could be accomplished by transferring the Witness Protection Program from DOJ to the VCGCB would be minimal. The LAO indicates that more information is needed from the board about the requirements for federal matching funds and whether or not DOJ could access the federal VOCA money if expenditures qualified. Staff finds that given the structural problems in the Restitution Fund the Subcommittee's earlier action to reduce funding for the Witness Protection Program should be sustained.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Transfer $50 million from the Restitution Fund to the General Fund on a one-time basis. This shall be considered repayment to the General Fund of a loan that was taken from the fund in 1993-94.
- Transfer an additional $30 million from the Restitution Fund to the General Fund on a one-time basis.
- Adopt supplemental report language that requires the department to develop options for developing more Joint Powers Authority for covering counties that do not have Restitution Centers and developing relationships with District Attorneys and the DOJ to ensure the state maximizes the VOCA federal funds it can draw down with its expenditures.

0820 Department of Justice

1. Unallocated Reduction—Technical Adjustment

Previous Subcommittee Actions. The Governor is proposing a 10 percent unallocated General Fund reduction to DOJ's budget. This would result in a reduction of $41.6 million General Fund across all program areas. This would reduce DOJ expenditures to a level below estimated expenditures in the current year. At the April 10 meeting of this Subcommittee actions were taken to make specific reductions to DOJ's budget to help meet this reduction target. These actions are detailed below.

Furthermore, additional actions are proposed in this agenda and should also count towards DOJ's unallocated reduction.

Department of Justice (in millions)	
Eliminated vacant positions	$13.5
Reduced workload budget proposal for habeas corpus workload	1.8
Eliminated Gang Suppression Enforcement Taskforces	5.3
Eliminated funding for gang curriculum	0.1
Subtotal	**$20.7**

May Revision. A Finance Letter (dated May 13, 2008) proposes a technical adjustment that is part of a Central Services Agencies May Revision proposal that would reduce DOJ's unallocated reduction by $346,000 General Fund. The Central Services Agencies proposal would also realign funding of some central services and would switch $3.5 million General Fund with a new Centralized Services Fund.

This technical adjustment will be considered as part of the larger Central Services Agencies proposal.

Staff Recommendation. Staff recommends that the Subcommittee eliminate the unallocated reduction given the other actions taken by the Subcommittee on April 10 and to be taken today.

2. Eliminate Vacant Positions

Previous Subcommittee Action and Direction. At the April 10 meeting of this Subcommittee an action was approved to eliminate vacant positions and reduce DOJ's budget by $13.5 million. The Subcommittee requested that staff, LAO, DOF, and DOJ work on developing a process and budget bill language to guide the process of identifying and eliminating positions to generate this savings.

DOJ Response. The DOJ has suggested a technical adjustment to the action taken by the Subcommittee on April 10. This action would reduce savings by $1.6 million, but would still eliminate 100 positions along with corresponding operating expenditures and equipment. This action will result in $11.9 million General Fund savings in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee amend its previous action to update the savings recommended by DOJ.

3. Charging State and Local Agencies Lab Fees

Previous Subcommittee Direction. At the April 10 meeting of the Subcommittee, staff, LAO, DOF, and DOJ were directed to develop a plan for reducing the General Fund support for the state forensic labs, including raising fees for selected lab services. The department has broad authority for charging fees for the laboratory services it performs (Penal Code §11050.5). The department currently charges $35 per blood alcohol analysis for certain non-driving cases.

The Governor's budget includes $92 million to support DOJ's 11 criminalistic laboratories. The budget assumes that 70 percent of this budget will be supported by the General Fund ($64 million). The department current charges $35 per analysis

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reduce General Fund support for the forensic laboratories by $10 million and increase expenditures from the DNA Identification Fund by $10 million to reflect additional fees for laboratory services.
- Add budget bill language that directs the department to use their existing authority to charge fees to develop a fee schedule that (1) mitigates unusually high costs for complex investigations, (2) is commensurate with the costs to provide the service, and (3) generates an additional $10 million in fee revenue.

4. Correctional Law: Class Action and Civil Lawsuits

Previous Subcommittee Direction. At the April 10 meeting of the Subcommittee a $2.3 million General Fund budget augmentation to support workload related to the class action and civil lawsuits that have been brought against the California Department of Corrections and Rehabilitation. The department estimates that it has approximately $5 million in its base budget to support this workload.

The Governor's budget proposal includes $2.3 million from the General Fund to establish 13.1 positions (4 attorneys) to defend CDCR in various class action and civil lawsuits.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal.

5. Transfers and Loans to the General Fund

Previous Subcommittee Direction. At the April 10 meeting of the Subcommittee testimony was heard about $75 million that is currently being held in the department's Litigation Deposit Fund as a result of the Williams Energy Settlement. There are no statutory restrictions on how the state uses the funds and the department has indicated that they could be transferred to the General Fund.

May Revision. A Finance Letter (dated May 13, 2008) proposes one-time loans to the General Fund from special funds administered by the Department of Justice. These loans include $1 million from the Sexual Habitual Offender Fund and $6 million from the False Claims Act Fund.

Alternate Recommendations. The LAO recommends transferring $1 million from the Sexual Habitual Offender Fund and $8 million from the False Claims Act Fund instead of the loans proposed by the Governor. The LAO also recommends transferring the balance of the Williams Energy settlement to the General Fund. The LAO estimates this is $69 million and not the $75 million reported by staff at the April 10 meeting of the Subcommittee.

Furthermore, DOJ has proposed transferring funding for the Medi-Cal fraud unit from the General Fund to the False Claims Act Fund. Staff finds that the Sexual Habitual Offender Fund has had solvency problems as recently as 2007. In addition, the revenues to the False Claims Act Fund are irregular, which makes it risky to support an ongoing program from this fund source.

The proposed loan from the Sexual Habitual Offender Fund will leave this fund with a reserve of $912,000 at the end of the budget year. The loan from the False Claims Act Fund would leave this fund with a reserve of $6.2 million at the end of the budget year and the LAO's proposed transfer would leave the fund with $4.2 million.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Transfer $69 million in William's energy settlement revenues to the General Fund.
- Transfer $8 million from the False Claims Act Fund to the General Fund.

6. Hazardous Waste Litigation

Previous Subcommittee Direction. At the April 10 meeting of this Subcommittee, testimony was heard about the impacts of the Governor's veto of $2.2 million that had been included in DOJ's 2007 Budget Act appropriation to support hazardous waste enforcement work. This veto had left the department with approximately $2.2 million in the current year, which was continued in the budget year to support hazardous waste enforcement work.

May Revision. A Finance Letter (dated May 13, 2008) proposes an additional $1 million in reimbursements from the Legal Services Revolving Fund to augment an interagency agreement between the department and the Department of Toxic Substances Control to continue to provide additional litigation support in hazardous waste enforcement cases.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision Finance Letter proposal.

7. CALMS Methamphetamine Program

Background. The DOJ's California Methamphetamine Strategy (CALMS) program supports local law enforcement in the investigation and prosecution of crimes related to the production of methamphetamines. This program was augmented by $4.5 million ongoing in 2006. A report on the performance of this program that was due to the Legislature in January 2008. This report has not been received by the Legislature and is not expected to be completed until October 2008.

Governor's Budget. The Governor's budget includes $14.6 million in the base budget for the CALMS program. This includes the $4.5 million that was added to the budget in 2006. The Governor does not propose any changes to this program in the budget.

LAO Recommendations. The LAO finds that has not made a specific recommendation related to this program. However, the LAO notes in their analysis that a recent report by the Drug Enforcement Administration (DEA) finds that methamphetamine production in the United States is on the decline due to federal and state laws regarding the sale and purchase of precursor and essential chemicals used in the manufacture of methamphetamines. Furthermore, research by the DEA suggests that the most promising means of eliminating the smaller meth production labs is to cut off their supply of meth precursor chemicals.

Staff Comments. Given the state's fiscal condition and the changing trends in meth production, staff finds that this program could be reduced by $4.5 million. This would bring the program to its 2005 funding level. Staff finds that the CALMS program has done important work in combating meth production especially in the Central Valley. Staff finds that if DOJ wants to continue to focus its efforts on meth production it can realign existing resources to continue these activities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reduce the CALMS program by $4.5 million.
- Approve budget bill language to ensure that the department can continue to fund CALMS program activities through the reprioritization of its existing law enforcement resources.

8. Spousal Abuser Prosecution Program

Background. The DOJ administers the Spousal Abuser Prosecution Program that provides $3 million for grants to district attorneys and city attorneys for the vertical prosecution of domestic violence offenses. This program is similar to the Vertical Prosecution Block Grant program administered by the Office of Emergency Services.

Governor's Budget. The Governor's budget includes $3 million for grants to fund the Spousal Abuser Prosecution Program. The Governor does not propose any changes to this program.

LAO Recommendation. The LAO recommends consolidating the Spousal Abuser Prosecution Program with the Vertical Prosecution Grant program at OES. The LAO does not recommend reducing this program.

Staff Comments. The DOJ has indicated to staff that they agree this program could be consolidated with the other vertical prosecution programs at OES. This transfer of the program would require a change in statute. Given the fiscal condition of the state, staff finds that this grant program could be reduced in the budget year. Staff finds that OES already has $16 million available for subventions to local district attorneys and city attorneys for vertical prosecution and this program could be absorbed within the existing program since both programs fund similar activities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Eliminate funding for the Spousal Abuser Prosecution Program.
- Approve trailer bill language to transfer administration of the program to OES.

9. Executive Programs

Previous Subcommittee Meeting. At the April 10 meeting of the Subcommittee, an action was taken to consolidate the Division of Executive Programs into the Criminal Law Division. The DOJ reports that there are three programs within the Division of Executive Programs that are not administrative and that provide direct services or benefits to California citizens. These programs are:
- **Crime Violence Prevention Center –** This center initiates and promotes policies and programs that improve the quality of life for Californians through the prevention and reduction of crime and violence.
- **Office of Victim Services –** This office leads California's fight toward preserving the rights of crime victims through responsive programs, accessibility of services, and progressive legislation.
- **Office of Native American Affairs –** This office serves as liaison and addresses justice-related issues for California's Indian citizens who reside on reservations, rancherias, and in urban communities for the overall improvement of the quality of life for Indian people.

Governor's Budget. The DOJ reports that the Crime Violence Prevention Center and the Office of Victim Services have a combined budget of $4.7 million and 40 positions. The Office of Native American Affairs is supported by $326,000 and two positions.

Staff Comments. Given the fiscal condition of the state, the DOJ has indicated that the Office of Native American Affairs and the Crime and Violence Prevention Center could be eliminated to provide General Fund savings. Staff finds that these programs are not part of DOJ's core mission. Given the state's fiscal condition, staff finds that the elimination of these programs would have minimal impacts on the department's ability to implement its core mission.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate funding for the Executive Programs, thereby reducing DOJ's budget by $5 million.

10. Proposition 69 – DNA Program Implementation

DNA Program Created by Proposition 69. In November 2004, the voters of California passed the DNA Fingerprint, Unsolved Crime, and Innocence Protection Act (Proposition 69) into law. This Act requires the collection of DNA from the following persons for inclusion in the state's DNA Databank:

- Adults and juveniles convicted of any felony offense.
- Adults and juveniles convicted of any sex offense or arson offense, or an attempt to commit any such offense (not just felonies).
- Adults arrested for or charged with felony sex offenses, murder, or voluntary manslaughter (or the attempt to commit such an offense).

Beginning in 2009, DNA will be collected from all adults arrested for or charged with any felony offense.

The initiative requires the use of buccal swab samples to produce a DNA profile. The initiative also requires DOJ to analyze and upload certain DNA samples into the CAL-DNA databank and the Combined DNA Index System (CODIS) databank maintained by the FBI within six months. If DOJ does not upload certain DNA samples into these databanks within six months, they are required to contract with public or private labs to ensure that DNA samples are processed in a timely manner.

DNA Program Financing. The initiative created a $1 criminal penalty for every $10 in fines, penalties, and forfeitures collected by the courts for criminal offenses. This funding was split between the state and the counties to support Proposition 69 activities.

The revenues generated from the criminal penalty charge established by the initiative have been consistently short of what is needed to fully fund the program. The initiative does not require the state to fully fund the requirements of Proposition 69 with General Fund monies if sufficient revenues are not generated to support this program.

In order to address the structural shortfall in the DNA Identification Fund, the Legislature enacted an additional $1 criminal penalty for every $10 in fines, penalties, and forfeitures collected by the courts for criminal offenses effective July 2006. Nevertheless, despite this additional revenue source the DNA program was still projected to be short the fee revenues it needed to support the program. Therefore, $11 million General Fund was provided to DOJ in the 2007 Budget Act to backfill this shortfall.

Governor's Budget. The Governor's budget includes $36.6 million in revenues to the DNA Identification Fund, which is approximately $8 million more than the revenues estimated in the current year.

Updated Revenue. The DOJ indicates that revenues to the DNA Identification Fund have increased in the current year and the fund now has sufficient revenues to support the entire DNA Program. The LAO concurs with the department on its revenue estimate. Therefore, the DOJ and LAO concur that the General Fund added to backfill for the revenue shortfall in the current year can be reduced.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate $11.2 million General Fund from the DNA Program.
- Increase expenditures from the DNA Identification Fund by $11.2 million.

11. Vehicle and Equipment Deferrals

Governor's Budget. The 2006 Budget Act included a significant baseline increase ($8.8 million) to the department's budget for vehicles, radios, and forensic equipment. This action allowed the department to increase its replacement cycle for these vehicles and equipment. The Governor's budget contains this baseline augmentation.

Staff Comments. Staff finds that routine equipment replacement is needed by the department, but given the state's fiscal condition the replacement schedule could be extended.

Staff Recommendation. Staff recommends that the Subcommittee reduce the department's budget for vehicles, radios, and forensic equipment by $3.9 million.

0855 California Gambling Control Commission

1. Tribal Gaming Revenues—Informational Item

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee the DOF agreed to report tribal gaming revenues separately in the budget to make them more transparent. The Subcommittee also took action to use funding in the Special Distribution Fund (SDF) to ensure enough funds were available in the Revenue Sharing Trust Fund (RSTF) to make the required payments to each non-compact tribe. This action increased General Fund revenues by $40 million from tribal gaming.

May Revision. The May Revision includes a proposal to take the same action this Subcommittee took on April 9. However, the May Revision also contains an updated tribal gaming revenue estimate that is slightly lower than what was assumed in the January budget proposal. The Governor reports that the new revenue estimate is $6.7 million lower in the current year and $23.7 million lower in the budget year due to the delayed adoption of the Sycuan tribal compact by the Sycuan General Council. Given this development, the action the Subcommittee took on April 9 results in a net increase in General Fund revenues of $16.3 million instead of $40 million.

The updated revenues from the tribal-state compacts are as follows:

- General Fund - $446.7 million.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately $40 million to pay $1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - $49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - $100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

New Compact Signed. On April 28 the Governor signed two related tribal gaming compacts. These compacts have not been ratified by the Legislature. The following is a summary of the compacts:

- **North Fork Mono Rancheria.** The compact would authorize the North Fork Mono Rancheria to operate a gaming facility just north of the city of Madera and authorize the tribe to operate no more than 2,500 slot machines at the facility. This facility is estimated to generate over $25 million annually for the General Fund. The facility will share revenues with the state based on a sliding scale percentage of net win from the operation of the slot machines and the banked card games from 13.5 percent to 22 percent. The facility will also share revenues with the Wiyot Tribe.
- **Wiyot Tribe.** The compact with the Wiyot Tribe would require the tribe to forego its right to game on its tribal lands along Humboldt Bay in exchange for revenue payments from a gaming facility to be operated by the North Fork Mono Rancheria in Madera County. The Wiyot Tribe will receive a sliding scale percentage of the net win from the

North Fork Mono Rancheria gaming operation. The Wiyot Tribe is expected to get about $3 to $5 million annually above the distributions they currently receive from the Revenue Sharing Trust Fund.

2. Gambling Control Fund

Background. The Gambling Control Fund is used to support gambling regulation activities at the Gambling Control Commission and the Department of Justice. Revenues to this fund are from fees and penalties collected from persons operating cardrooms. The Governor's budget estimates that this fund will have a reserve of $14 million in the budget year.

May Revision. The May Revision proposes to loan $10 million from the Gambling Control Fund to the General Fund on a one-time basis. This would leave the fund with approximately $4 million in reserve in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

3. Inspection Program

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee, a proposal to continue $1 million from the Special Distribution Fund for the Gambling Control Commission's electronic gaming device inspection program was rejected. At that time of the hearing, the Legislature had not received a legislatively mandated report on the performance of the GCC's slot machine inspection and testing program.

Electronic Gaming Device Inspection Report. Since the Subcommittee meeting on April 9, staff has received the report on the commission's electronic gaming device inspection program. This report found that of the 1,275 components/software that were tested over 28 percent were obsolete. This means that the manufacturer had issued a newer version of the software and is no longer supporting the old version. The commission points out that obsolete software may not always pose a risk and therefore many not need to be removed from the casino floor. However, during the analysis of the obsolete software the commission staff found that some of the software did pose a risk and the staff made recommendations to have it upgraded or removed.

The commission indicates that it cannot currently document an increase in revenues to the state due to the electronic gaming testing. However, the commission indicates that when electronic gaming devices function improperly because of the use of revoked or obsolete software the devices may not be properly accounting for gaming revenue, which would impact the state's revenue.

Staff Comments. Staff finds that electronic gaming devices are the most important source of revenue in the tribal gaming operations. Given the initial findings of the commission, staff finds that it would ultimately be beneficial to continue the commission's inspection presence.

The LAO finds that the report on the electronic gaming device inspection program has provided the Legislature with useful information about the performance of this inspection program. The LAO recommends that the reporting requirement be continued so that the Legislature can continue to monitor the performance of this program. Also, the LAO finds that the information contained in the audit report from the commission is useful to the Legislature and that this report should also be continued.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Restore $1 million from the Special Distribution Fund to continue the electronic gaming device inspection program.
- Approve the following supplemental report language recommended by the LAO for the audit program and the electronic gaming inspection program:

__1. Audit Staffing, Workload, Productivity, and Results__. No later than March 1, 2009, the California Gambling Control Commission (CGCC) shall submit to the Legislature updated workload information regarding its audit plan. The information shall include an update of the audit plan including the status of backlogged audits, the updated number of hours to complete an audit, the outcomes of audits completed, the number of audit positions that have been filled and the number of vacancies, and an updated calculation of audit staff needs based on the most recent workload information. Should the administration submit a budget change proposal (BCP) for audit-related programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.

__2. Field Inspection and Technical Services (Gaming Device Testing) Programs.__ No later than March 1, 2009, CGCC shall submit to the Legislature a report describing the activities of its field inspection and technical services programs including: (a) an updated list of ratified and proposed tribal-state compacts that authorize state testing of gaming devices; (b) relevant measures of productivity by both of the programs (including, but not limited to, the number of devices tested and at how many facilities); (c) descriptions of significant problems discovered with gaming devices as a result of these programs' activities and measures taken to resolve the problems; (d) a measure of state revenues, if any, collected as a result of the programs' activities (including identification of any such revenues that overlap with those listed in the commission's report to the Legislature on audit program results), (e) an evaluation of the programs' workload and whether currently authorized staffing levels are sufficient for the commission to fulfill its responsibilities, and (f) any recommendations to the Legislature on budgetary, statutory, or other changes necessary to allow the commission to operate these programs in a more effective and productive manner. Should the administration submit a BCP related to these programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.

0250 Judicial Branch

1. Unallocated Reduction

Previous Subcommittee Actions. The Governor is proposing a 10 percent unallocated General Fund reduction to the budget for the Judicial Branch. This would result in a reduction of $246 million General Fund. At the April 9 meeting of this Subcommittee actions were taken to make specific reductions to the budget for the Judicial Branch to help meet this reduction target. These actions are detailed below.

Judicial Branch (in millions)	
Delayed appointment of 50 judges for one year (current year action).	$54.2
Delayed appointment of 50 judges until 2009-10	16.8
Delayed implementation of the Omnibus Conservatorship Act	17.4
Increased Civil Filing Fees and back out General Fund	21.0
Rejected workload budget change proposals to AOC program support	1.5
Rejected workload budget change proposals to AOC fiscal support	1.3
Rejected workload budget change proposals to Supreme Court	1.0
Rejected workload budget change proposals to Courts of Appeal	0.7
Subtotal	**$113.9**

In addition, at the April 9 meeting of the Subcommittee, actions were taken to reject the unallocated reductions to the Supreme Court, Courts of Appeal, and Habeas Corpus Resource Center given the relative importance of these appellate bodies in the fair administration of justice. Therefore, in order to meet the target set by the Governor an additional $132 million will have to be reduced from the budget for the Administrative Office of the Courts (AOC) and the trial courts.

Also at April 9 Subcommittee meeting the Judicial Branch submitted an alternate proposal that would provide the trial courts with a full workload budget, including the full SAL adjustment by relying on the reserve funds that are currently being held at the trial courts. The LAO estimates that the trial courts have approximately $590 million in reserve funds of which $235 million are classified as restricted by contract or statute.

Trial Courts

1. Trial Court Security

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee placeholder trailer bill language was approved to limit the amount counties can charge the courts for trial court security to the mid-step salary of sheriff deputy and to determine an appropriate mid-step salary level for large, medium and small counties.

Staff Comments. Staff finds that the action taken by the Subcommittee on April 9 was a good first step towards containing and standardizing court security costs. However, staff finds that more needs to be done to establish a real security standard that includes a staffing standard that will ensure equal security in all court facilities.

Staff finds that in order to improve court security, enable the state to contain security costs going forward, and adjust costs appropriately when new, more secure, court facilities are constructed, more needs to be done to reconfigure court security funding based on a level of service. Staff finds that this change would require the development of detailed staffing standards for individual court facilities. Staff also finds that the statute and rules of court would need to be amended to ensure uniformity court-to-court on court-sheriff responsibilities and what is included in the cost of deploying a sheriff deputy and other non-sworn court security personnel in each county.

The courts have reported that the current trial court budget has a shortfall of $20 million to fund court security obligations using the existing methodology that is not based on standardized level of service. The AOC indicates that implementing a standard level of service may actually increase expenditures on court security going forward because many courts are below current standards. However, it may actually reduce court security expenditures in some courts that are operating above standards.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve $20 million to fund the current shortfall in court security.
- Approve trailer bill language to do the following:
    - Establish statewide security standards including staffing standards.
    - Base court security costs on average staffing costs instead of mid-step salary.
    - Create uniformity court-to court for the cost of deploying a sheriff deputy by clarifying court-sheriff responsibilities and standardizing costs, including making it clear that retiree health is not a state funding responsibility.
    - Establish a separate item for tracking and accounting for court security funding.

2. Court Reporting

Previous Subcommittee Direction. At the April 9 meeting, the Subcommittee discussed the LAO's recommendation to transition from court reporters to electronic methods of recording court proceedings. The Subcommittee directed staff, LAO, DOF, and the courts to explore options for savings related to converting civil court operations to electronic reporting.

Staff Comments. Staff finds that electronic reporting can significantly reduce the costs of providing transcripts to participants in court proceedings. For example, an electronic recording can cost a participant as little as $10 to $20, which is considerably les than a written transcript created by a court reporter. Written transcripts created by court reporters are often $300 or more depending on the length of the hearing. Staff finds that some indigent litigants do have access to free or reduced price transcripts, but only if they are represented by Legal Aid. If they are unrepresented or have ever been unrepresented they are not eligible for these free or reduced price transcripts.

Nevertheless, staff recognizes the importance of court transcription services, especially for cases that are going to be appealed. Furthermore, staff finds that converting all civil court operations to electronic reporting would not be appropriate given the need for a written record in many proceedings.

The AOC indicates that it currently has authority to use electronic reporting in limited civil matters which are less than $25,000. However, staff finds that the use of electronic reporting would greatly enhance the access to justice for court participants in some other limited court proceedings other than limited civil. Specifically, staff finds that electronic reporting could be used effectively in family court, probate court, mental health court, and in laws and motions proceedings. In all of these courts staff finds that the litigants would greatly benefit from electronic recording. In those cases where they need to appeal, they would still need an official transcript. However, staff notes that for the vast majority of litigants in these courts there is not a need to appeal. For example, in family law the parties may simply need to prepare a judgment reflecting the orders of the court (who has custody, what is the visitation schedule, etc.). Without the ability to translate what the court said at the hearing into a written judgment the litigants do not have enforceable orders. Electronic reporting would enable litigants to more quickly and economically a record of the hearing and allow them to prepare a timely judgment.

Staff finds that transitioning the limited court proceedings listed above to electronic reporting is not likely to produce significant budgetary savings. However, it could significantly improve the utilization of court reporters in the courts and lead to some efficiencies. Furthermore, this action would greatly improve the access to justice for many litigants that would be able to gain more economical and timely transcripts of their court proceedings.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve trailer bill language to authorize the use of electronic reporting in family court, probate court, mental health court, and in laws and motions proceedings. Also authorize the courts to use electronic reporting for limited administrative purposes such as monitoring performance of subordinate judicial officers.

Judicial Council/Administrative Office of the Courts

1. Budget Balancing Reductions

Previous Subcommittee Meeting. At the April 9 meeting of the Subcommittee no action was taken on the one-time unallocated reduction ($4.7 million) proposed by the AOC for the Judicial Council/AOC budget. However, the Subcommittee did take action to eliminate the two budget augmentations proposed in the Governor's budget, which resulted in $2.8 million in savings towards the unallocated reduction proposed by the Governor.

Staff Comments. Staff finds that the proposed reduction to the Judicial Council/AOC will require actions that will reduce services and the support provided to the Judicial Branch. Furthermore, the AOC has indicated that the current budget does not include funding to support over $1 million in unavoidable costs (rent and health benefit increases) so it will likely have to further reduce service levels. Nevertheless, given the overall fiscal condition of the state this reduction may be prudent given the alternatives that may have a larger impact on the access to justice.

Staff Recommendation. Staff recommends that the Subcommittee approve a $4.7 million reduction to the Judicial Council/AOC budget.

Administrative Office of the Courts: Office of Court Construction and Management

1. Budget Balancing Reductions

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Office of Court Construction and Management on a one-time basis by $1.2 million General Fund in the budget year.

Staff Comments. Staff finds that the proposed reduction to the Office of Court Construction and Management and require the department to eliminate some vacant positions. The AOC recognizes that there have been some delays in filling positions due to delays in the facility transfers. Nevertheless, given the recent passage of legislation (Chapter 9, Statutes of 2008 [AB 1491, Jones]) to extend the deadline for transferring court facilities the AOC will need to fill these positions. In order to address this expected workload, the AOC is requesting budget bill language to enable an augmentation of staffing resources in the budget year to backfill this reduction, funded from the State Court Facilities Construction Fund.

Staff finds that the State Court Facilities Construction Fund has sufficient funds to support the capital outlay projects proposed for funding in the 2007 Budget Act and to absorb additional staff costs of $1.2 million.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve $1.2 million reduction to the Office of Court Construction and Management.
- Approve budget bill language to allow the AOC to request additional resources from the State Court Facilities Construction Fund in the 2008-09 fiscal year pending notification of the Legislature and limit the available augmentation to $1.2 million.

2. Court Facility Operations and Maintenance

Previous Subcommittee Action. At the April 9 meeting of the Subcommittee, actions were taken to approve the Governor's budget and Finance letter proposals to (1) increase expenditures from the Court Facilities Trust Fund to account for additional court facility payments (CFPs); (2) increase General Fund support for maintaining new court facilities that have transferred to the state that have expanded square footage and a CFP that is insufficient to cover the expanded square footage; and (3) increased expenditures from the Court Facilities Construction Fund and reimbursements to support modifications to trial court facilities that have transferred to the state.

May Revision. A Finance Letter (dated May 13, 2008) proposes to transfer $1.7 million General Fund to the Court Facilities Trust Fund to cover additional operations and maintenance costs of new or newly renovated court facilities that will transfer to the state in the next year and have CFPs that are not adequate to maintain the additional square footage added since the CFP was determined. The budget year costs represent partial-year funding, which is anticipated to grow to $2.5 million in 2009-10. The funding will supplement the CFP and support ongoing operations and maintenance at the following new or newly remodeled facilities:

- Amador: Renovated Begovich Building
- Contra Costa: New Family Law Center
- Placer: New South Placer Justice Center
- Sacramento: New Juvenile Courthouse
- San Bernardino: New Juvenile Dependency Courthouse
- San Luis Obispo: New Paso Robles Court
- Santa Cruz: New Watsonville Courthouse
- Ventura: New Juvenile Courthouse

In some cases the additional operations and maintenance costs are needed because as part of the court facility transfer agreement, the county agreed to move out of space that they previously occupied in the court facility. Since the CFP was based on the square footage occupied by the court at a point of time, it did not cover the space previously occupied by the county in the facility. The funding will also supplement the additional square footage no longer occupied by the county at the following facilities:

- Butte: Butte County Courthouse
- Shasta: Main Courthouse
- Sierra: Downieville Courthouse

Update on Statute Impacting Transfers and CFPs. Since the April 9 meeting of the Subcommittee, legislation (Chapter 9, Statutes of 2008 [AB 1491, Jones]) was enacted to extend the date for counties to transfer court facilities to the state. The original statutory deadline had expired June 30, 2007. The new statute requires that the counties transfer the facilities before

January 1, 2009. If they are not transferred to the state by this date they may be subject to a multiplier that will increase their CFP payment to the state. The CFP would be increased by the National Implicit Price Deflator if it did not transfer by January 1, 2009 and it would be increased by the State Appropriations Limit if the court facilities did not transfer by December 31, 2009. Staff finds that this new law may provide the state with a marginal increase in additional CFP payments from the counties to cover the costs of operating and maintaining these facilities transferred to the state. However, the penalty will not come close to covering the actual operations and maintenance costs of these facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision Finance Letter proposal.

5225 California Department of Corrections and Rehabilitation

Board of Parole Hearings

1. Lifer Hearing Process

Previous Subcommittee Direction. At the May 5 meeting of the Subcommittee the Governor's budget proposal to provide the Board of Parole Hearings (BPH) with additional resources to improve the lifer hearing process and comply with the settlement agreement in the *Lugo* lawsuit. The Subcommittee approved funding for the Forensic Assessment Division and the Case Records Unit, but left open the funding proposed for the Hearings Division to support establishing three additional commissioners. The Subcommittee requested that staff review the viability of eliminating two juvenile commissioners and redirecting these positions to the Board.

The Subcommittee also requested that the Board report back on the adequacy of the current compensation rates for the attorneys representing lifers in the life hearing process.

Staff Comments. The *LH* lawsuit is a class action lawsuit alleging that California's parole revocation process for juvenile offenders violates the due process clause of the U.S. Constitution. Given the new demands placed on the Juvenile Parole Board, staff does not propose transferring two juvenile commissioners in the budget year. Nevertheless, given the continued decline of the juvenile population in state facilities the demand for these commissioners should be evaluated in the near future.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve funding for the hearing division.
- Approved trailer bill language to establish three new commissioners at BPH.

Division of Juvenile Justice

1. 2007 Juvenile Justice Reform

Previous Subcommittee Action. At the April 17 meeting, the Subcommittee heard an update on the implementation of recent juvenile justice reform legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]). This legislation limits the types of juvenile offenders that could be committed to the state Division of Juvenile Facilities (DJF). Specifically, all youthful offenders adjudicated for non-violent, non-serious offenses (commonly referred to as non-707(b) offenders) would remain in local care and custody, rather than be sent to the state. (The legislation also excludes juvenile sex offenders.) The reform proposal provided counties with a block grant that amounted to approximately $130,000 per youthful offender per year. At this meeting the Subcommittee approved trailer bill language to require an annual report from the counties on its expenditure of these block grant funds that tracked six outcome measures currently tracked in the report on the expenditures of the Juvenile Justice Crime Prevention Act (JJCPA) funding.

Staff Comments. Staff finds that the JJCPA metrics may not be the most appropriate metrics to use in evaluating the expenditure of the block grant funds. Nevertheless, staff finds that ongoing reporting of performance metrics submitted by the counties is important to understanding the progress being made by the counties in treating and rehabilitating youthful offenders. This information will help the state understand the value of its investment in local programs that serve youthful offenders.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:
- Approve trailer bill language to require annual reporting tied to the youthful offender block grant.

2. Commission on Juvenile Justice

Previous Subcommittee Meeting. At the April 17 meeting of the Subcommittee testimony was heard from the tri-chairs of a newly reconstituted State Commission on Juvenile Justice. The Commission reported on its activities to date, including its work in developing an operational master plan for juvenile justice. The Commission has an interim report due to the Legislature by May 1, 2008. The Subcommittee has not received this report to date. The final operational master plan is due on January 1, 2009. The commission is set to sunset at this date.

Staff Comments. Staff finds that the Commission has made some progress in forming the commission and developing a work plan for developing an operational master plan. Staff finds that it may be beneficial to extend the commission for at least an additional year. Staff finds that the current timeframe for developing an operational master plan is relatively short especially given the collaboration and consensus that is needed to develop a meaningful work product. Furthermore, staff finds that there is value in continuing the commission for at least one-year after the operational master plan is released so that the commission can help promote and implement the policies in the operational master plan.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve trailer bill language to extend the sunset date of the commission by one year.
- Approve budget bill language to re-appropriate the one-time funding ($600,000) provided for the support of the commission in the current year. This will enable the department to continue to expend these funds to support the commission in the budget year.

3. DJJ Population Estimate

Previous Subcommittee Meeting. At the April 28 meeting of the Subcommittee the January estimate of the DJJ population was discussed and help open. The Subcommittee also requested staff, LAO and DOF to determine what action is needed to continue to make progress to improve the transparency of the DJJ population estimate.

Population Estimate. The Governor's January budget proposal estimated that as of June 30, 2007, 2,516 wards reside in DJJ facilities. The January budget proposal forecasts that the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year.

As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent.

The May Revision does not propose a change in funding for the juvenile population despite spring projection provided by the department that indicates some increase in population was assumed above the Governor's January budget in both the current and budget years.

Population Estimate – Fiscal Impact. The Governor's budget proposal contains an additional $3.1 million in the current year to fund the juvenile population due to unexpected delays in the closure of DeWitt Nelson Youth Correctional Facility. However, the Governor's budget expects a reduction of $57 million General Fund in the budget year due to the projected population decline at DJJ.

The May Revision estimate reduces the amount proposed in the current year by $8.6 million in the current year and $4.3 million in the budget year to reflect a delay in contracting for secure placements for the female offenders currently residing in state DJJ facilities. The contracting out for services for the female offenders is part of the Safety and Remedial Welfare Plan developed to comply with the *Farrell* lawsuit.

In summary, the total decrease in funding related to the population estimate is $11.7 million in the current year and $61.3 million in the budget year.

The Governor's budget and May Revision also proposes budget proposals to technically realign DJJ resources among its programs to more accurately reflect the actual expenditures in each program area. The DJJ has the following four programs: (1) security and support, (2) education/non education, (3) Proposition 98 education, and (4) medical.

LAO Recommendation. The LAO finds that the juvenile population may be slightly lower than projected in the Governor's budget and revised by the May Revision. Specifically, the LAO thinks that funding for DJJ could be reduced by $7.6 million in the current year and an additional $15.6 million in the budget year. The department indicates that this level of savings may be unattainable in the budget year due to the length of the state layoff process. However, the LAO finds that this level of savings could be attainable given the large number of vacancies within DJJ.

Staff Comments. The department has agreed to continue to work on improving the transparency and organization of the DJJ population estimate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the LAO's revised population estimate.
- Approve the Governor's budget and May Revision proposals to realign DJJ resources among its programs.

4. *LH* Lawsuit Compliance—Juvenile Parolee Due Process

Previous Subcommittee Action. At the April 28 meeting of the Subcommittee action was taken to approve $3.2 million to comply with the *LH* lawsuit. The *LH* lawsuit is a class action lawsuit alleging that California's parole revocation process violates the due process clause of the U.S. Constitution. At this meeting there was some concern that the budget proposal included attorney representation for parole consideration hearings. The LAO had pointed out that attorney representation for parole consideration hearings had not been ordered by the court. The Subcommittee requested that staff, LAO, and DOF resolve this issue.

Staff Comments. The DOF has indicated that funding for attorney representation at parole consideration hearings was included in the budget request for compliance with the *LH* court orders. The DOF has proposed to delete this funding from the proposal in the budget year. This results in $221,000 in savings in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee reduce the *LH* budget proposal approved at the April 28 Subcommittee meeting by $221,000.

Other Issues

1. Human Resources Support

Previous Subcommittee Direction. At the May 5 meeting of the Subcommittee no action was taken on the Governor's budget proposal to augment the department's human resources activities. The Governor's budget proposed $4.7 million to support 10 new positions and the conversion of 34 limited-term positions to permanent. The department is also requesting funding to continue 15 limited-term positions to support dental and mental health hiring in the budget year. These positions would support the following:

- **Office of Executive Recruitment and Program Performance Management.** 4 new positions to support the recruitment and hiring of executive level management.
- **Office of Personnel Services, Customer Service Staff.** 6 new positions to provide managers and supervisors with technical expertise concerning the hiring process, classification and pay, merit issues, training, progressive discipline and general personnel management issues. This office is also responsible for developing consistent policies and procedures and work on numerous changes to classification and pay that are needed to better recruit and retain qualified individuals.

- **Office of Workforce Planning.** Convert 3 limited-term positions to permanent to continue support for recruitment efforts to attract trained staff for 500 plus classifications (excluding entry level peace officers).
- **Office of Selection Services.** Convert 4 limited-term positions to permanent to continue support for the administration of examinations required to hire qualified staff in a timely manner.
- **Institution Personnel Office Statewide.** Convert 27 limited-term positions to permanent to continue to support hiring and selection at the institutions.
- **Dental and Mental Health Hiring Plan.** Continue 15 limited-term positions to support a variety of hiring activities at the institutions and headquarters related to hiring large numbers of dental and mental health staff required by federal court actions. The department proposed to make these positions permanent starting in 2009-10.

At this meeting of the Subcommittee, the LAO requested more time to review information related to this request.

LAO Recommendation. Given the state's fiscal condition, the LAO recommends modifying the Governor's request to augment the department's human resources division. Specifically, the LAO recommends rejecting the 10 positions requested for the Office of Executive Recruitment and the Office of Personnel Services. The LAO notes that these positions may be potentially beneficial, but given the state's fiscal condition they would recommend denying these positions at this time. They also reject the Governor's request to make the 15 limited-term positions for the dental and mental health hiring plan permanent. They propose that these positions continue through 2008-09 as limited-term positions as originally proposed. The LAO finds that if some of these activities require ongoing resources, the department should come forward with a request as part of the 2009-10 budget process. The LAO estimates that these actions will save the state $2.3 million in the budget year.

Staff Comments. Staff concurs with the majority of the LAO's recommendations. However, staff finds that this Subcommittee has voiced concerns on numerous occasions about structural problems within the department relating to classification and pay. Staff finds that a portion of the positions requested in the Office of Personnel Services could enable the department to work on some of these ongoing problems and develop solutions that will improve the department's ability to recruit and retain qualified staff. For example, the department has had ongoing problems with retention and recruitment of case record classifications and deputy commissioner classifications that should be evaluated.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject new positions for the Office of Executive Recruitment and Program Performance Management given the state's fiscal condition.
- Approve three 2-year limited term positions to work on various classification and pay projects to improve recruitment and retention. Reject the other 3 positions requested.
- Approve conversion of 34 limited-term positions to permanent positions.
- Make no changes to the 15 limited-term positions to support the dental and mental health hiring plan. If the department wants to make these positions permanent they should submit a new proposal in 2009-10.

2. Consolidated Information Technology Infrastructure Project

Background. Currently, most of the department's information technology systems are past their useful life (many were designed and implemented in the 1970s). Furthermore, the department cannot improve these systems without first addressing serious deficiencies in the telecommunications and electrical infrastructures of the institutions. The current electrical infrastructure at some prisons will not support the use of additional computer technology. Furthermore, the department currently does not have the technology to utilize information technology devices (computers) in various places within the institutions outside of the Warden's office. The institutions generally have very little computing capabilities, records staff often do their work without the assistance of computers, and some institutions were not connected to the Internet until just a few years ago.

The 2007 Budget Act contained $114 million to start funding the Consolidated Information Technology Infrastructure Project (CITIP) to upgrade the electrical systems, telecommunications systems, and information technology network at the prisons. This project is necessary to implement a new computer-based system that will track offender information. Real-time offender information will improve the department's ability to track performance outcomes, manage the prison population, and implement rehabilitation programming.

A portion of this project was eligible for GS $MART financing, which will enable the state to finance this investment over several years at a reduced up-front cost to the General Fund. The General Fund impact of this project in the current year was estimated to be $28 million in the 2007 Budget Act. This project was estimated to cost $289 million to implement over nine years, including the cost of financing a portion of the project.

May Revision. A Finance Letter (dated May 13, 2008) proposes an adjustment to the current year and budget year funding proposed in the Governor's budget to support the CITIP program. These adjustments are based on actual project costs and the removal of health care from this program. The Receiver has indicated that he is pursuing his own information technology infrastructure solutions.

The Finance Letter would reduce the overall CITIP project costs by $39.2 million in the current year and $37.4 million in the budget year. This reduction also impacts the amount that can be financed, thereby lowering the General Fund impact in the current year and budget year by $1.6 million and $19.7 million, respectively. The total cost of this project is now estimated to be $212 million, which is $77 million less than originally estimated, including the cost of financing a portion of the project.

Staff Recommendation. Staff recommends that the Subcommittee approve the May Revision Finance Letter proposal to adjust this project.

3. Electric Fence Activation

Background. The department has been constructing new electric fences at the California Men's Colony and the Sierra Conservation Center. These new fences were activated in August 2007 and May 2008, respectively. Historically, the activation of electric fences has allowed the department to deactivate some perimeter gun towers and replace these positions with staff that patrol the fence. Staffing the perimeter gun towers is more staff intensive than providing staff to patrol the fence.

May Revision. A Finance Letter (dated May 13, 2008) proposes $2.8 million in General Fund savings to deactivate guard towers that no longer need to be staffed once institutional electric fences have been activated. This proposal would reduce 42 custody positions currently staffing some of the perimeter guard towers and would add 5 positions at each institution to create new dedicated fence patrol posts, for a net reduction of 37 positions.

LAO Recommendation. The LAO recommends approving the savings proposed in the May Revision related to activating the electric fences at the California Men's Colony and the Sierra Conservation Center. The LAO also recommends that $1.5 million in additional General Fund savings can be scored in the current year since both of these fences were activated in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision Finance Letter.
- Approve the LAO's recommendation for additional savings in the current year.

4. El Paso De Robles Warm Shutdown

Background. The department announced that it would shut down the El Paso de Robles Youth Correctional Facility in the current fiscal year given the continued decline in the juvenile population in state Division of Juvenile Justice (DJJ) facilities. Subsequently, CDCR announced that it would re-purpose this campus as a facility for adults. The department has indicated that it is still evaluating what needs could be served by this facility, including ongoing discussions with the local community.

May Revision. A Finance Letter (dated May 13, 2008) requests $775,000 General Fund to support 5 positions and operating expenses to facilitate a "warm" shutdown of the El Paso de Robles Youth Correctional Facility. This funding will enable the department to maintain a small crew that will maintain the water, boiler, and wastewater systems and do minimal upkeep to the grounds to ensure that the facility can be utilized in the near future.

Staff Comments. Staff finds that in recent years the department has completely shut down existing facilities and has not provided minimal maintenance staff to keep core systems in operation. This has resulted in facilities that are unusable by the department without major repairs to get the core systems operating again. Given the overcrowded conditions that continue to persist in the adult prison system, staff finds that this facility could be useful in helping to alleviate this problem.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision Finance Letter proposal.

5. Correctional Officer Recruitment and Training

Background. The CDCR has made significant progress in recruiting custody classifications. Historically, vacancies for custody classifications are between 7 percent and 15 percent for adult institutions depending on the institution. The department estimates that vacancies will be nearly eliminated at most institutions by the end of the current fiscal year.

The LAO has also confirmed that the department has made significant progress in filling correctional officer vacancies. Specifically, the LAO reports that the department graduated nearly 1,600 correctional officers from the academy between July 2007 and December 2007. Over this same time period attrition was estimated to be about 600 resulting in a net gain of 1,000 new officers. This data is supported by position and vacancy reports from the State Controller's Office.

This progress is likely the result of several years of increased investments to recruit and train additional correctional officers. For example, the 2006 Budget Act included over $54 million expanding the Basic Correctional Officer Academy to train and hire additional correctional officers to fill the department's vacancies.

However, even though vacancies have been reduced the department and the LAO concur that overtime expenditures continue to rise. The department and the LAO concur that this is likely being driven by many factors, including increased medical guarding and transportation related to the Receiver. The department admits that it does not currently have a good explanation for why the overtime expenditures continue to rise even though vacancies are being filled. The department reports that the current tracking system for overtime needs to be simplified so that the data reported can be better understood.

Governor's Budget and May Revision. The Governor's budget and a Finance Letter (dated May 13, 2008) propose to reduce funding for correctional officer and parole officer recruitment and training by $8.7 million in the current year and $40 million in the budget year. This reduction is mainly due to the deactivation of the Correctional Training Center Annex that was being operated at the Northern California Women's Facility, which is now slated to be converted to the state's first re-entry facility. This proposal would shift some of the savings from this closure to expand the parole agent academy in the budget year. The department estimates that under this budget proposal it will have the capacity to graduate 1,940 correctional officers, 40 juvenile correctional officers, and 480 parole agents in the budget year. The detailed components of this plan are as follows:

- **Correctional Training Center Annex Deactivation.** $428,000 in savings in the current year and $28.6 million in savings in the budget year due to the deactivation of the Correctional Training Center Annex in the budget year. The Annex accommodated the training of 1,200 cadets, but is being deactivated due to the impending transition of this facility to the Northern California Reentry Facility. This deactivation results in a reduction of 18 positions in the current year and 88 positions in the budget year.

- **Cadet Standard.** $8.2 million in savings in the current year since the department estimates that it will train slightly fewer correctional officers than anticipated in the current year. The department estimates that it will train about 490 fewer correctional officers than previously estimated in the current year.
- **Office of Peace Officer Selection.** $1.7 million in additional funding for the Office of Peace Officer Selection to increase support a contract with the State Personnel Board for psychological screenings. Historically, the lag in getting a completed psychological screening has increased the time it takes to hire a correctional officer. This augmentation will help reduce the backlog at the State Personnel Board.
- **Parole Agent Academy.** $3.1 million in additional funding to support 17 positions to double the size of the parole agent academy, thereby increasing the number of parole agents that can be trained to 480 in the budget year.
- **Basic Correctional Officer Regional Satellite Academy.** The Governor's budget proposal had included $4.5 million for a one-time regional satellite academy to fill additional correctional officers at hard to fill institutions. However, the May Revision deleted funding for this satellite academy given the success in filling vacancies in the current year.
- **Basic Correctional Officer Academy – Galt.** $11.7 million reduction to the primary training academy for correctional officers. The academy in Galt is currently staffed to provide training to 2,500 cadets. This proposal would reduce the capacity of the academy to just fewer than 2,000, which is the number of new officers the department projects it will need in the budget year. This proposal would also result in a reduction of 17 positions in the budget year.
- **Basic Correctional Juvenile Academy.** $4.2 million reduction to the academy for training correctional juvenile officers. The current academy in Stockton can support training 240 cadets. This proposal would reduce the capacity of the juvenile academy to 40 juvenile cadets, which is the number of new juvenile officers the department projects it will need in the budget year.
- **Range Safety Officers.** The department requests establishing 11 Range Safety Officers at the Galt Basic Correctional Officer Academy. Currently the department relies on range officers traveling to the academy to provide the range safety, which is funded out of the standard funding complement for a cadet. This proposal would enable the department to establish Range Safety Officer positions at the academy.
- **Office of Training and Professional Development.** $445,000 in additional funding to support 6 positions to provide additional business services support that was created by the 2005 reorganization and was never funded.

Staff Comments. Staff finds that the Governor's proposal would allow the department to maintain its academy at a level that should enable the department to keep up with filling positions lost due to attrition and will be able to add 700 additional positions as needed. The department indicates that this is estimated to meet the Receiver's needs in the short term. However, it is uncertain what additional custody staff resources the Receiver may need as he completes his custody assessments at each institution.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the May Revision Finance Letter proposal.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

PART A
Wednesday, May 21, 2008
OUTCOMES

(Consultant - Keely Martin Bosler)

State Administration—General Government—Judiciary—Transportation

0855 California Gambling Control Commission

1. Tribal Gaming Revenues—Informational Item

Action. No action taken this was an informational item. However, the LAO reported that their alternative budget discounted the tribal gaming revenues by $160 million below the Governor in the budget year.

2. Gambling Control Fund

Action. No action.

3. Inspection Program

Action.

- Restored $1 million from the Special Distribution Fund to continue the electronic gaming device inspection program.
- Approved the following supplemental report language recommended by the LAO for the audit program and the electronic gaming inspection program:

  1. Audit Staffing, Workload, Productivity, and Results*. No later than March 1, 2009, the California Gambling Control Commission (CGCC) shall submit to the Legislature updated workload information regarding its audit plan. The information shall include an update of the audit plan including the status of backlogged audits, the updated number of hours to complete an audit, the outcomes of audits completed, the number of audit positions that have been filled and the number of vacancies, and an updated calculation of audit staff needs based on the most recent workload information. Should the administration submit a budget change proposal (BCP) for audit-related programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

  2. Field Inspection and Technical Services (Gaming Device Testing) Programs. *No later than March 1, 2009, CGCC shall submit to the Legislature a report describing the activities of its field inspection and technical services programs including: (a) an updated list of ratified and proposed tribal-state compacts that authorize state testing of gaming devices; (b) relevant measures of productivity by both of the programs (including, but not limited to, the number of devices tested and at how many facilities); (c) descriptions of significant problems discovered with gaming devices as a result of these programs' activities and measures taken to resolve the problems; (d) a measure of state revenues, if any, collected as a result of the programs' activities (including identification of any such revenues that overlap with those listed in the commission's report to the Legislature on audit program results), (e) an evaluation of the programs' workload and whether currently authorized staffing levels are sufficient for the commission to fulfill its responsibilities, and (f) any recommendations to the Legislature on budgetary, statutory, or other changes necessary to allow the commission to operate these programs in a more* *effective and productive manner. Should the administration submit a BCP related to these programs at CGCC on January 10, 2009, the BCP may be designated as the submission fulfilling this reporting requirement, provided that it includes all of the information described above and is distributed to all persons who receive responses to this supplemental report.*

Vote. 3-0

1870 Victim Compensation and Government Claims Board

1. Restitution Fund

Action.

- Transferred $50 million from the Restitution Fund to the General Fund on a one-time basis. This shall be considered repayment to the General Fund of a loan that was taken from the fund in 1993-94. **This was a May Revision proposal to increase General Fund revenues by $50 million.**
- Transferred an additional $30 million from the Restitution Fund to the General Fund on a one-time basis. **This increases General Fund revenue by $30 million because the May Revision proposed to loan this money to the Emergency Services Account.**
- Adopted supplemental report language that requires the department to develop options for developing more Joint Powers Authority for covering counties that do not have Restitution Centers and developing relationships with District Attorneys and the DOJ to ensure the state maximizes the VOCA federal funds it can draw down with its expenditures.

Vote. 3-0

0820 Department of Justice

1. Unallocated Reduction—Technical Adjustment

Action. Eliminated the unallocated reduction given the other actions taken by the Subcommittee on April 10 and May 21. **Collectively the actions taken on April 10 and May 21 reduce DOJ's budget/increase transfers to the General Fund by $114.1 million over the Governor's unallocated reduction. The Subcommittee took no action on loans proposed in the May Revision.**

Vote. 3-0

2. Eliminate Vacant Positions

Action. Amended April 10 action by the Subcommittee to reduce the savings related to eliminating vacancies from $13.5 million to $11.9 million. This will result in approximately 100 positions. **Reduces April 10 General Fund savings by $1.6 million.**

Vote. 3-0

3. Charging State and Local Agencies Lab Fees

Action.

- Reduced General Fund support for the forensic laboratories by $32 million and increase expenditures from Reimbursements as recommended by the LAO in the Subcommittee. **Increases General Fund savings by $32 million.**
- As recommended by the LAO, approved financial protection for DOJ in the form of budget bill language to ensure fee payments are made by local governments to DOJ. If they are not one option for ensuring financial protection of DOJ's crime labs would be to require that the SCO transfer directly from the Proposition 172 allocations an amount of the unpaid bill of local government.
- Add budget bill language that directs the department to use their existing authority to charge fees to develop a fee schedule that (1) mitigates unusually high costs for complex investigations, (2) is commensurate with the costs to provide the service, and (3) generates an additional $32 million in fee revenue.
- *Staff note: Staff notes that while not specifically discussed at the hearing amendments should also be made to state agency budgets to reflect a new fee schedule. However, these adjustments would be considered conforming and could be developed as this proposal moves to conference.*

Vote. 2-1 (Harman)

4. Correctional Law: Class Action and Civil Lawsuits

Action. Approved this budget proposal.

Vote. 3-0

5. Transfers and Loans to the General Fund

Action.

- Transferred $69 million in William's energy settlement revenues to the General Fund. **Increases General Fund revenues by $69 million.**
- Transferred $8 million from the False Claims Act Fund to the General Fund. **Increases General Fund revenues by $8 million, without creating future liability (May Revision proposes loan of $6 million).**

Vote. 3-0

6. Hazardous Waste Litigation

Action. Approved this May Revision Finance Letter proposal.

Vote. 3-0

7. CALMS Methamphetamine Program

Action.

- Reduced the CALMS program by $4.5 million. **Increases General Fund savings by $4.5 million.**
- Approved budget bill language to ensure that the department can continue to fund CALMS program activities through the reprioritization of its existing law enforcement resources.

Vote. 2-1 (Harman)

8. Spousal Abuser Prosecution Program

Action.

- Eliminated funding for the Spousal Abuser Prosecution Program. **Increases General Fund savings by $3 million.**
- Approved trailer bill language to transfer administration of the program to OES.

Vote. 3-0

9. Executive Programs

Action.

- Eliminated funding for the Executive Programs, thereby reducing DOJ's budget by $5 million. **Increases General Fund savings by $5 million.**

Vote. 3-0

10. Proposition 69 – DNA Program Implementation

Action.

- Eliminated $11.2 million General Fund from the DNA Program. **Increases General Fund savings by $11.2 million.**
- Increased expenditures from the DNA Identification Fund by $11.2 million.

Vote. 3-0

11. Vehicle and Equipment Deferrals

Action. Reduced the department's budget for vehicles, radios, and forensic equipment by $3.9 million. **Increases General Fund savings by $3.9 million.**

Vote. 3-0

0250 Judicial Branch

1. Unallocated Reduction

Action. No action required. This item was included for informational purposes.

Trial Courts

1. Trial Court Security

Action.

- Approved $20 million to fund the current shortfall in court security. **Increases General Fund Expenditures $20 million above the May Revision.**
- Approved trailer bill language to do the following:
  - Establish statewide security standards including staffing standards.
  - Base court security costs on average staffing costs instead of mid-step salary.
  - Create uniformity court-to court for the cost of deploying a sheriff deputy by clarifying court-sheriff responsibilities and standardizing costs, including making it clear that retiree health is not a state funding responsibility.
  - Establish a separate item for tracking and accounting for court security funding.

Vote. 2-1 (Harman)

2. Court Reporting

Action.

- Approved trailer bill language to authorize the use of electronic reporting in family court, probate court, mental health court, and in laws and motions proceedings. Also authorize the courts to use electronic reporting for limited administrative purposes such as monitoring performance of subordinate judicial officers.

Vote. 3-0

Judicial Council/Administrative Office of the Courts

1. Budget Balancing Reductions

Action. Approved a $4.7 million reduction to the Judicial Council/AOC budget. **This budget action provides $4.7 million General Fund towards the Governor's unallocated reduction.**

Vote. 3-0

Administrative Office of the Courts: Office of Court Construction and Management

1. Budget Balancing Reductions

Action.

- Approved $1.2 million reduction to the Office of Court Construction and Management. **This budget action provides $1.2 million General Fund towards the Governor's unallocated reduction.**
- Approved budget bill language to allow the AOC to request additional resources from the State Court Facilities Construction Fund in the 2008-09 fiscal year pending notification of the Legislature and limit the available augmentation to $1.2 million.

Vote. 3-0

2. Court Facility Operations and Maintenance

Action.

- Approved the May Revision Finance Letter proposal.

Vote. 3-0

5225 California Department of Corrections and Rehabilitation

Board of Parole Hearings

1. Lifer Hearing Process

Action.

- Approved funding for the hearing division.

- Approved April Finance Letter that reduces this item.
- Approved revised non-urgency trailer bill language to establish three new commissioners at BPH.

Vote. 3-0

Division of Juvenile Justice

1. 2007 Juvenile Justice Reform

Action.

- Approved trailer bill language to require annual reporting tied to the youthful offender block grant.

Vote. 3-0

2. Commission on Juvenile Justice

Action.

- Approved trailer bill language to extend the sunset date of the commission by one year.
- Approved budget bill language to re-appropriate the amount remaining of the one-time funding ($600,000) provided for the support of the commission in the current year. This will enable the department to continue to expend these funds to support the commission in the budget year.

Vote. 3-0

3. DJJ Population Estimate

Action.

- Approved the LAO's revised population estimate for the current year. **This action increases General Fund savings in the current year by $7.6 million.**
- Approved the LAO's revised population estimate in the budget year discounted by 50 percent because of the uncertainty regarding DJJ's population estimate and budget. **This action increases General Fund savings in the budget year by $7.8 million.**
- Approved the May Revision population adjustment related to the delay in implementation of the female contract.
- Approved the Governor's budget and May Revision proposals to realign DJJ resources among its programs.
- Approved technical adjustments to the Breakfast-Lunch Reimbursements, County Referral Reimbursements, and County Payments. These adjustments should conform to the action taken on the population estimate.

Vote. 3-0

4. *LH* Lawsuit Compliance—Juvenile Parolee Due Process

Action. Reduced the *LH* budget proposal approved at the April 28 Subcommittee meeting by $221,000 to conform to an agreed up on technical adjustment to exclude attorney funding for parole consideration hearings. **This action increases General Fund savings by $221,000.**

Vote. 3-0

Other Issues

1. Human Resources Support

Action.

- Rejected new positions for the Office of Executive Recruitment and Program Performance Management given the state's fiscal condition.
- Approved three 2-year limited term positions to work on various classification and pay projects to improve recruitment and retention. Rejected the other 3 positions requested.
- Approved conversion of 34 limited-term positions to permanent positions.
- Make no changes to the 15 limited-term positions to support the dental and mental health hiring plan. If the department wants to make these positions permanent they should submit a new proposal in 2009-10.
- **Collectively this action would reduce General Fund spending by about $600,000.**

Vote. 3-0

2. Consolidated Information Technology Infrastructure Project

Action. Approved the May Revision Finance Letter proposal to adjust this project.

Vote. 3-0

3. Electric Fence Activation

Action.

- Approved the May Revision Finance Letter.
- Approved the LAO's recommendation for additional savings in the current year. **This action increased savings by about $1.5 million in the current year.**

Vote. 3-0

4. El Paso De Robles Warm Shutdown

Action. Approved this May Revision Finance Letter proposal.

Vote. 3-0

5. Correctional Officer Recruitment and Training

Action. Approve the Governor's budget proposal and the May Revision Finance Letter proposal, except for the parole officer academy augmentation. This item was left open.

Vote. 3-0

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe

Wednesday, May 21, 2008
1:30 p.m.
Room 112

Consultant: Bryan Ehlers

"B" Agenda

Item Number and Title **Page**

Vote-Only 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.

Item Proposed for Vote-only

2320 Department of Real Estate

Supplemental Report Language Requiring Information Technology (IT) Update. Over the past several years, the Department of Real Estate (DRE) has implemented various IT initiatives to improve its services and the efficiency with which they are delivered.

Staff Comment: The following supplemental report language (SRL) would require the DRE to update the Legislature on the success of various IT projects, and help ensure that the department continues to pursue opportunities to improve the efficiency of its operations.

> *The Department of Real Estate shall report by March 1, 2009 to the chairperson of the budget committee of each house of the Legislature and to the Legislative Analyst's Office on the status of its Electronic Exams project, as well as provide an update on utilization of the e-Licensing system and its related savings. The department shall also report on further opportunities to achieve administrative efficiencies through the use of information technology.*

Staff Recommendation: APPROVE the SRL (in conformance with the Assembly).

Control Section 15.25 Data Center Rate Adjustments

The Governor proposes a minor, technical revision to this control section which allows the Director of Finance to adjust the amount in any appropriation item in the Budget Act resulting from changes in rates for data center services approved by the Technology Services Board.

Staff Recommendation: APPROVE the request.

VOTE on Vote-Only Items:

Items Proposed for Discussion

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 begins by funding 1,386.3 positions (a net decrease of 2.2 positions over adjusted current year totals) and budget expenditures of $185.7 million (including $89.9 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction (Budget-Balancing Reduction–BBR) of approximately $9.0 million.

DISCUSSION ITEMS:

<u>Human Resources Management System (HRMS)/21st Century Project (Items 1-3)</u>

The following three items should be considered and voted upon together.

1. BCP-4A: HRMS/21st Century Project. The SCO requests 70.5 limited-term positions and $38.3 million ($21.9 GF; 2.9 reimbursements; and $13.5 million special funds).

Staff Comment: This request is part of an ongoing multi-year project (which was first funded in FY 2003-04) to replace existing employment history, payroll, leave accounting, and position control systems. The Subcommittee discussed and held this item open at an earlier hearing, pending a revised Special Project Report (SPR) from the Administration. The revised project proposal is discussed below in Item 2.

2. Finance Letter: HRMS/21st Century Project (with provisional language). The SCO requests authority to establish 24.9 two-year limited-term positions (to be paid for by a $2.5 million reduction in Operating Expenses and Equipment), and provisional language to adjust funding for the 21st Century Project, for FY 2008-09, if necessary.

Staff Comment: Initial 21st Century Project funding was provided pursuant to a May Revise request in FY 2003-04, and was made contingent upon an approved Feasibility Study Report (FSR). The following year, the Administration brought forward another May Revise request, based on an FSR approved May 14, 2004, and the Legislature approved funding for the procurement phase of what was then estimated to be a $132.1 million project to replace the state's existing employment history, payroll, leave accounting, and position control systems. In each subsequent year, the Legislature has approved additional funding, with the last revision to the project plan coming on March

15, 2006 (when the estimated cost increased by approximately $6.0 million—to $138.4 million).

Although the SCO is not asking for additional funding in FY 2008-09, this latest request is based upon another revision to the 21st Century Special Project Report (SPR), finalized on April 21, 2008, which estimates the project will take an additional year and $40 million dollars (a nearly 30-percent cost increase) to successfully complete. The following table compares the project costs under the previous ("old") SPR (April 11, 2006) to the new estimates under the latest SPR (April 21, 2008):

Fiscal Year	SPR*	Redirection	Reimbursements	Special Funds	Federal Funds	General Fund	Total
2003-04	Actual	$462,943	$947,964				$1,410,907
2004-05	Actual	1,197,109	1,020,878	$2,453,000	$399,422		$5,070,409
2005-06	Actual	740,315	736,000	7,695,980	1,245,359		$10,417,654
2006-07	Actual	1,230,177	1,036,000	13,548,050	2,489,929	$18,444,372	$36,748,528
2007-08	Actual/ Projected	1,306,772	1,036,000	14,651,481	2,029,061	21,261,850	$40,285,164
2008-09	Old	1,843,099	663,001	14,311,981	2,509,683	18,834,557	$38,162,321
	New	1,333,368	1,036,000	13,504,688	735,790	10,919,770	27,529,616
2009-10	Old	4,432,450				4,373,729	$8,806,179
	New	1,333,367	666,001	20,416,144	3,126,978	9,936,568	$35,476,058
2010-11	New					21,733,322	$21,733,322
Totals	Old	$11,056,336	$5,439,843	$51,499,213	$9,447,929	$60,947,142	$138,390,463
	New	$7,604,051	$6,475,843	$72,269,843	$10,026,539	$82,295,882	$178,671,658

(*"Old" SPR = 2006; "New" SPR = 2008)

As illustrated above, much of the additional $40 million in funding will not be required until the out years of 2009-10 and 2010-11. In fact, the budget-year need for GF decreases by $7.9 million (from $18.8 million to $10.9 million) under the proposal. Staff notes, however, that the Governor is requesting no change to the originally requested level of appropriation, but has instead proposed provisional language to authorize the Department of Finance to reduce GF authority consistent with a final, revised contract agreement with the system integrator (Bearing Point—BP). This issue is addressed in the "LAO Recommendation" section below.

According to the Administration, the SCO and BP realized by the summer of 2007 that the project was behind schedule and corrective actions were necessary to get the project back on track. Several key decisions, regarding the development and design of the project were made around that time, including the following:

1. A change from a four-build/deployment to a two-build approach.
2. Design issues regarding retroactivity and concurrent employment were analyzed and new action plans were developed and incorporated into the master schedule.

Although work on the project did not entirely stop, during the ensuing fall and into the winter, the SCO and BP were in talks regarding BP's request to amend the original terms of the project contract, including changes to the project schedule, costs, and build/deployment approach. The two parties reached an amended agreement in early January 2008, and this triggered the need for the revised SPR (noted above). Staff notes that the state has not agreed to increase the amount of the BP contract. According to the SCO, the new SPR would add $1.7 million in additional deliverables, which would bring the total deliverables to $68.1 million (or $1.0 million below the $69.1 million total value of the contract). The remainder of the $40.0 million would go to fund other state costs primarily associated with project changes and the extension of the timeline into an additional fiscal year (for example, extending state staff alone will cost an additional $16.6 million, while data center costs will run an additional $9.6 million).

Staff notes that included in this proposal is a reduction in reimbursement authority of $85,000 and 1.0 position for the Department of Personnel Administration (which is cooperating with the SCO on the 21st Century Project).

LAO Recommendation: The LAO recommends the following changes to the proposed provisional language:

1. Where "Special Project Report" is referenced in each of the proposed provisions, it should be prefaced with the phrase "the most recently approved."
2. In the third proposed provision, after "Notwithstanding", strike "any other provision of law" and substitute "provisions of Item 9840."
3. Reduce SCO's 21st Century HRMS budget by $7.9 million GF to reflect the most recently approved SPR.

The LAO-recommended, Item 0840-001-0001 provisional language (described above) reads as follows:

> *X. Notwithstanding any other provision of law, the Controller may not expend funds for system integration vendor costs related to the Human Resources Management System (HRMS), also known as the 21st Century Project, after July 31, 2008, beyond the Design Phase Payment Deliverables for the 21st Century Project as set forth in Amendment 1 to Agreement No. 22191025, until the Office of the Chief Information Officer certifies the Controller has entered into a contract or contract amendment with a system integration vendor that is consistent with the most recently approved Special Project Report for HRMS.*
>
> *X. Funding for system integration vendor costs shall not exceed the estimates in the most recently approved Special Project Report for Human Resources Management (HRMS), also known as the 21st Century Project, unless in the course of contract negotiations the state and the vendor mutually agree that additional functionality is necessary for the successful implementation of the HRMS and such changes are approved by the Office of the Chief Information Officer. However, no such contract or contract amendment shall be executed until 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations.*

X. Notwithstanding provisions of Item 9840, the Department of Finance may adjust the amounts authorized under Item 0840-001-0001 and Control Section 25.25 of this act, consistent with the funding schedule included in the most recently approved Special Project Report for the Human Resources Management System, also known as the 21st Century Project. (a) No adjustments shall be made pursuant to this provision prior to a 30-day notification in writing to Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations.

3. BCP-4B: HRMS/21st Century Project Federal Fund Repayment. The SCO requests $969,000 for reimbursement of federal funds collected in 2005-06 and 2006-07.

Staff Comment: In early 2007, the SCO was notified by the United States Department of Health and Human Services that certain costs are not chargeable to federal funds prior to system implementation. As a result, the state must refund (with interest), approximately $1.0 million in federal funds collected for unallowable 21st Century Project costs in FYs 2005-06 and 2006-07. The SCO indicates that, while these costs must be repaid at this time, the GF will be reimbursed when the federal fund sources pay their fair share after the system is operational.

Staff Recommendation for Discussion Items 1, 2, and 3: APPROVE Item 1, the LAO recommended revisions to Item 2, and Item 3 as budgeted.

VOTE:

0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the California Department of Insurance (CDI) regulates the largest insurance market in the United States with over $118 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 1,338.8 positions (including 6.5 new positions) and expenditures of $224.1 million (special fund), programmed as follows:

Program	Expenditures*	% of Department Budget
Fraud Control	$95,113	42%
Regulation of Insurance Companies & Insurance Producers	$71,735	32%
Consumer Protection	$55,148	25%
Tax Collection & Audits	$2,122	1%

(*dollars in thousands)

VOTE-ONLY ITEMS:

1. BCP: Credit Card Transaction Fees Augmentation. The CDI requests $120,000 (Insurance Fund) to cover the projected increase in credit card convenience fees associated with internet and telephone producer licensing services.

Staff Comments: The CDI has been able to absorb the current $371,914 in credit card costs because of savings generated when the department switched from primarily manual processing of licenses to an automated system. However, the department indicates that additional credit card transaction fees can no longer be absorbed.

Staff Recommendation: APPROVE the request.

VOTE:

2. BCP: Telecommunications Infrastructure Replacement Project (TIRP)—Extend Limited-Term Positions. The CDI requests $137,000 (Insurance Fund) in FY 2008-09 and $274,000 in FY 2009-10 to extend the term of 3.0 limited-term positions by 18 months.

Staff Comments: As the TIRP reaches full implementation, the CDI indicates the requested extension is necessary to allow ample time for the collection of empirical workload data to determine the extent of ongoing permanent staffing and resources to fully support the Voice Over Internet Protocol/Call Center systems.

Staff Recommendation: APPROVE the request.

VOTE:

3. BCP: Americans with Disability Act (ADA) Compliance Workload. The CDI requests $83,000 (Insurance Fund) for two years to fund temporary help to address ADA workload in the Equal Employment Opportunity (EEO) Office and ensure that the department is fully ADA compliant.

Staff Recommendation: APPROVE the request.

VOTE:

4. Trailer Bill Language (TBL): Surcharge on Property Insurance—Wildland Firefighting Initiative. The Governor proposes TBL to create a Firefighting Safety Account within the Insurance Fund and to require the CDI to impose on insurers an annual assessment of 1.25 percent of the premium for each commercial and residential insurance policy.

Staff Comment: On a premium base of approximately $10.5 billion, the proposed assessment would generate approximately $105 million in FY 2008-09, and an estimated $125 million annually thereafter, to the Firefighting Safety Account. Under the Governor's proposal, these dollars would fund a variety of firefighting measures contained in other budgets (including the Department of Forestry and Fire Protection, the Military Department, and the Office of Emergency Services).

As discussed during the legislative special session on the fiscal emergency, there are concerns about both the legality and equity of levying what is essentially a surcharge on all residents of the state including those that do not directly benefit from the state's wildland fire protection efforts. Additionally, as the LAO notes, the Governor's Budget does not provide funding or positions for collection of the proposed "special assessment." According to the CDI, it would likely require some additional staff to implement the proposal, but the level of resources required would depend upon the process for collecting the funds.

Staff Recommendation: DENY the TBL.

VOTE:

5. BCP: Increase Local Assistance to District Attorneys for Prosecution of Workers' Compensation Insurance Fraud. The CDI requests a one-time spending authority increase of $4.0 million (Insurance Fund) to assist district attorneys in combating workers' compensation fraud. The need for an additional assessment on insurers for this activity was decided by the Governor-appointed Fraud Assessment Commission in September 2007.

Staff Comment: Existing fraud-program efforts address Suspected Fraudulent Claim (SFC) referrals made by various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. However, in the CDI's own words:

> *The number of SFCs received by the [CDI] Fraud Division represents only a small portion of suspected insurance fraud, and does not necessarily reflect the whole picture of fraud/abuse. Many fraudulent activities may not have been identified or investigated.*

As was discussed last year when this issue came before the subcommittee, staff notes that not only may SFCs fail to identify many fraudulent activities, but the CDI cannot be certain that the SFCs identify the most egregious instances of fraud. This data gap means that the CDI may not be putting limited anti-fraud resources to their highest and best use (namely, targeting the most egregious/highest profile instances of fraud). While staff notes that this data gap will likely never be entirely filled, since would-be perpetrators of fraud will always seek to operate in secret, properly researching the issue ought to enable the CDI to better target fraud resources.

During the 2007-08 budget process, when the CDI requested additional funding, totaling $3.7 million, for workers' compensation insurance fraud prosecution, the Legislature approved the funding on a two-year limited-term basis with the understanding that a broad-based workers compensation insurance fraud study, approved as part of the 2006-07 Budget and augmented in 2007-08, would be completed in April 2008. The study was recommended by an April 2004 Bureau of State Audits report and was intended to measure the extent of workers' compensation insurance fraud as well as emerging trends in insurance fraud. According to the CDI, a study draft will be available in April 2008 with a final copy to be released May 15.

In the meantime, the University of California, Berkeley (UCB) has prepared a report for the California Commission on Health and Safety and Worker's Compensation (CHSWC) that was released in August 2007. Among other things, the UCB report documented a trend of increasing under-reporting of private industry payroll as workers' compensation insurance premium levels increased over the period from 1997 to 2002. The report also noted that payroll was being under or misreported for very high risk classes of workers by as much as 65 to 75 percent. To address these issues, the report made multiple recommendations to the CHSWC, including the following, that applied to the CDI:

- *The Legislature, California Department of Insurance, Department of Industrial Relations/Division of Labor Standards and Enforcement could push for more aggressive enforcement against misreporting and under-reporting. This could include:*
  a. *Focusing more Fraud Assessment Commission funding on premium fraud,*
  b. *Raising the civil penalties for premium fraud, and/or*
  c. *Raising the criminal penalties for premium fraud.*

- *The Test Audit Program which monitors insurer audits of policyholders is currently operated by the Workers' Compensation Insurance Rating Bureau, an insurance industry association. The California Department of Insurance* *might consider the suggestion of some observers and have this process conducted by a separate, private contractor.*

- *Recently, at least one very large national insurer was fined for systematically under-reporting premium in several states (Bloomberg News, 5/26/07). It is unclear whether the under-reporting extended to payroll and occurred in California. If this extended to California, then the estimates of under-reporting could include fraudulent behavior by at least one insurer, not just employers. This should be a high priority for study by CHSWC and CDI.*

- *Even more critical, if one or more insurers under-reported payroll and premium, there is a strong possibility that this action could have affected individual employers experience modification. In the aggregate, insurer under-reporting could also have elevated pure premium rates set by the WCIRB and CDI. Again, this should be a high priority area for CHSWC and CDI to study.*

The subcommittee may wish for the CDI to discuss the findings contained in the UCB report and to comment on how or if the department intends to address the recommendations.

Staff Recommendation: DENY the request. The Subcommittee has heard insufficient discussion of the department's efforts to target the requested funds at the most egregious fraud, and cannot be confident that they are being put to their highest and best use.

VOTE:

6. BCP: Automobile Rating Regulation Workload. The CDI requests 5.0 positions and $475,000 (Insurance Fund) to address increased workload resulting from recent regulatory changes.

Staff Comment: Proposition 103, passed in 1988 by the California voters, authorizes the CDI to pre-approve casualty rates and to challenge current rates if the Commissioner believes that the rates are excessive. Rate applications must be processed timely since the application is deemed approved 60 days after the public is given notice of the rate filing and, in any case, the rate is deemed approved 180 days after the application is received by the Commissioner, unless certain circumstances exist. The CDI can only disapprove a rate application after a formal public hearing in which a CDI attorney presents the department's case before an administrative law judge.

Due to recent changes in regulations, the CDI anticipates increased numbers of hearings in several areas:

- **Ongoing Filing Requirement.** Insurers, in certain circumstances, will have to file rate applications containing information critical to the department's ability to determine whether their rates are excessive. In the past, if an insurer had not filed a rate application for several years, the CDI would have had to pursue legal proceedings, including the discovery process, simply to obtain the information necessary to determine whether their rates were excessive. The costs of such a process were prohibitive, which meant that, during periods in which rates dropped, the CDI faced difficulty in ensuring that customers were not overcharged. Under the new regulations, the CDI will receive greatly enhanced data regarding insurer rates, and anticipates bringing more applications to hearing.

- **New Automobile Rating Regulations.** New weighting requirements for automobile insurance rates and class plans went into effect in 2006 that, combined with the ongoing filing requirement above, will result in additional hearings.

- **Reinsurance Costs.** For earthquake and certain medical malpractice applications, if certain criteria are met, the CDI must hold a hearing regarding the reasonableness of the reinsurance costs, and whether the costs will be included in the proposed rate change.

- **Variances.** The regulations code now contains additional grounds on which insurers may request a variance from the provisions of the rate formula. Based upon discussion with insurers, the CDI expects to receive more variance requests than in the past.

Staff notes that while the rationale for increased workload provided above is generally credible, the numbers of hearings estimated (which drives the number of positions requested) are somewhat speculative at this time. Due to the state's strong interest in ensuring that customers are not overcharged for insurance, the subcommittee may wish to give the CDI the benefit of the doubt and approve these positions, but require the department to report, over the next several years, on the number of hearings required in the areas outlined above. It may be that, over time, the industry will adjust to the new regulations and fewer hearings will be needed.

Staff Recommendation: APPROVE the request with SRL requiring the CDI to compare the projected workload to the actual workload over the next several years.

VOTE:

7. BCP: General Fund Tax Collection Program Funding. The CDI requests $2.1 million GF, and an equivalent decrease in special fund expenditure authority, to fund a General Fund Tax Collection Program.

Staff Comment: In FY 2002-03, as part of a May Revision General Fund cost reduction action, funding for the CDI's General Fund Tax Collection Program was shifted from the GF to the Insurance Fund. While the work remained the same, namely collecting GF taxes from the insurance industry, according to the CDI, the reduction forced the department to fund GF revenue tax collection activities with special funds. The CDI now requests to shift support of the program back to GF.

Staff notes that the original fund shift was made during a fiscal crisis and therefore it seems counter-intuitive that the Administration is now seeking to reverse this policy in the midst of another fiscal crisis. Staff additionally notes that rejection of this proposal would save $2.1 million GF relative to the Governor's Budget.

Staff Recommendation: DENY the request.

VOTE:

8. TBL: Life & Annuity Consumer Protection Program (LACPP): Delete Program Sunset. The Administration proposes TBL to delete the January 1, 2010, sunset of the LACPP.

Staff Comment: The CDI has provided insufficient justification for the repeal of the existing sunset for the LACPP based on data from the program's first full year of implementation. The CDI indicates that "the program and expenditure reports submitted to [the CDI] by the [District Attorneys] after the end of the grant year were adequate since they contained narratives of funded activities, details regarding personnel salaries and benefits, and a breakdown of operating costs." Staff notes, however, that the reporting referenced above does not provide sufficient evidence to conclude that LACPP funds are being put to their highest and best use (prosecuting or deterring the most egregious cases of fraud). Given that the program is supported by a fee on individual life insurance policies that can be passed on to consumers, the CDI ought to be able to demonstrate that the funds raised are, in an objective sense, producing the optimal return on investment in addressing life and annuity insurance fraud, and, in a more subjective sense, meeting the policy goal of providing protection to consumers of these types of insurance.

The statute authorizes the Commissioner to perform an audit of the program. The subcommittee may wish to encourage the CDI to perform an audit of the LACPP, including an analysis of how effectively the funding is targeted at the local level, and bring this proposal forward again next year if the audit findings provide a stronger justification to continue the program.

Staff Recommendation: DENY the TBL.

VOTE:

9. BCP: Life & Annuity Consumer Protection Fund Spending Authority Increase. The CDI requests $750,000 per year (Insurance Fund) for five years to assist district attorneys in combating life insurance and annuity financial abuse. Based on applications for these funds, they will be distributed to prosecute financial abuse crimes and educate consumers on financial abuse related to life insurance and annuity products.

Staff Comment: The CDI recently settled an enforcement action against a life insurer for $3,750,000, to be paid to the Life and Annuity Consumer Protection Fund at a rate of $750,000 per year for five years. Given that existing statute would repeal the Life & Annuity Consumer Protection Program and eliminate its fund source effective January 1, 2010 (as noted in Item 5, above), the CDI got the insurer to agree to alternate use for the funds if the sunset is not extended—redirection to the Disability and Health Fraud Assessment Fund.

Consistent with staff comments in Item 8 (above), the subcommittee may wish to approve this request for one year only with the expectation that an additional year of data on LACPP efforts will better inform a future decision on whether or not to continue the program and the funding requested.

Staff Recommendation: APPROVE the requested funding, but for one year only.

VOTE:

10. FL: Paperless Workflow System. The CDI requests $2.8 million (Insurance Fund) to support procurement of an enterprise electronic management "paperless" workflow system in the first year of a three-year project. The CDI anticipates future resource needs as follows:

FY 2009-10 – 2.0 limited-term positions and $2.5 million
FY 2010-11 – $792,000
FY 2011-12 and ongoing – $400,000

Staff Comment: According to the CDI, the proposed system would offer electronic forms and allow electronic filing of reports and documents to customers, greatly improving departmental efficiency by providing more timely access to documents and eliminating growing storage problems. Staff notes that many insurance companies are already equipped with the necessary technology to implement paperless communication; the CDI merely needs to catch up.

The LAO notes that the state has implemented similar paperless workflow systems in other departments, and, therefore, the feasibility of the project is not necessarily a concern. Additionally, the Insurance Fund contains a sufficient balance to support project costs. However, the Subcommittee may wish to adopt the following supplemental report language (SRL)—also adopted by the Assembly—to provide the Legislature with improved oversight of the project:

> *The California Department of Insurance shall report by January 10 of each year through 2011 to the chairperson of the budget committee of each house of the Legislature and to the Legislative Analyst's Office on its progress implementing the Paperless Workflow System—a centralized electronic document management system. Specifically, the department shall report on its progress as compared to the milestone and deliverable dates reported in its feasibility study report for this project, as well as report on its actual and projected expenditures.*

Staff Recommendation: APPROVE the request with SRL.

VOTE:

11. Staff Item: Conservation & Liquidation Office (CLO)—Oversight of Successor Insurers and Accounting for the Distribution of Estate Assets. The CDI's CLO assists the Insurance Commissioner (Commissioner) in conserving, rehabilitating, or liquidating financially distressed or insolvent insurers (known as "estates" once a court has ordered the Commissioner to proceed with conservation or liquidation of the insurers' assets). As of December 2007, the CLO was responsible for 25 estates, with assets totaling approximately $2.9 billion. The court orders calling for the liquidation of these estates spanned over 20 years (from 1985 to 2006).

Staff Comment: The Bureau of State Audits (BSA) issued a January 2008 report finding that the policyholders of one of the estates under the Commissioner's supervision (Executive Life Insurance Company—ELIC) had, over a 17-year period spanning five insurance commissioners, incurred significant economic losses. Additionally, the BSA noted that the CLO had failed to consistently monitor and report on fund distributions from the estate.

In his response to the audit, the Commissioner: (1) noted his pleasure that the report contained no findings of inappropriate use of estate funds or any negative findings regarding the proper and prompt distribution of funds to policyholders; (2) noted that the report was erroneous or did not provide a full and accurate context in some instances; but (3) indicated his intent to implement the BSA's recommendations.

In responding to the Commissioner's comments, the BSA reasserted that: (1) inconsistent CLO monitoring of the ELIC estate had resulted in less assurance that funds were distributed correctly from 1998 to 2006 compared to other periods; (2) inconsistent reporting had resulted in a lack of information available to policyholders and others interested in the ELIC estate; and (3) inconsistent accounting practices and inconsistent availability of supporting documents hindered a complete accounting of the ELIC estate. Additionally, the BSA refuted the Commissioner's accusation that his actions had not been put into full context in the report, and noted that he "mischaracterized" the BSA's recommendations when asserting that periodic audits of the ELIC estate constituted "proper handling."

Staff notes that although the Commissioner committed to implementing the BSA's recommendations regarding the activities of the CLO, the clear discrepancy between the BSA's "interpretation" of its findings and the Commissioner's interpretation of those findings may warrant the subcommittee's inquiry regarding his specific intent with respect to implementing the BSA's recommendations. Additionally, in light of the BSA's findings and given the nearly $3 billion dollars in assets at stake, the subcommittee may wish for the CDI to provide a report to the Legislature with a full accounting of the CLO, including, but not limited to, the number of positions within the office, their salaries, the CLO's legal expenses, and any insolvencies not closed within five years of a court ordered liquidation.

Staff notes that while the policyholders of an insolvent insurer stand to lose the most if an estate is inadequately overseen, there are others who may be affected. For example, the California Insurance Guarantee Association (CIGA) was established in the California Insurance Code to help relieve the financial burden on claimants (by paying their claims) when an insurer fails. The CIGA is funded in part by surcharges to insurance policies issued in California, but it also receives funds from the estates of insolvent insurance companies. Therefore, to the extent that estate funds are not managed effectively and efficiently, the CIGA stands to receive less funding from this source and could potentially need to raise more revenue through surcharges on policies—a cost to California's insured.

Staff Recommendation: ADOPT placeholder trailer bill language requiring the CDI to provide a full accounting to the Legislature on the CLO (as described above).

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 begins by funding 505.0 positions (a net increase of 7.0 positions over adjusted current year totals) and budget expenditures of $125.6 million (including $35.0 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction of approximately $3.5 million.

DISCUSSION ITEMS:

1. May Revise Letter: Early Presidential Primary Costs Incurred by Counties (with provisional language). The Secretary of State (SOS) requests $89.6 million in General Fund (GF) local assistance to pay for costs incurred by counties for the Presidential Primary election held in February 2008 pursuant to Chapter 2, Statutes of 2007 (SB 113).

Staff Comments: Although the 2005 special election cost the counties approximately $40 million, according to the Department of Finance (DOF), the costs of this year's early presidential primary were significantly higher for the following reasons:

1. Most significantly, the election was a primary, which requires a far greater number of ballots because each party gets its own. Primaries are always much more expensive than general elections.
2. A third of the counties had to migrate to paper ballots, which they were not using before. This is a significant cost driver, especially for the counties that are required to present ballots in multiple languages. Voting machines took care of those situations in the past but are no longer allowed (due to decertification). All but two counties had 99% of votes cast on paper, and even those two counties had to print many more ballots than before since voters could request one at the polls. Paper ballots cost between about 50 and 70 cents each.
3. Not only has registration increased since 2005, but there are many more voters who vote by mail (not necessarily permanent). Vote-by-mail ballot counting is a whole secondary process that is done almost entirely by hand.
4. The Help America to Vote Act (HAVA) took effect on January 1, 2006, and caused a sea change in the way elections are administered, requiring equipment in every polling place for confidential and independent voting. Complying with these requirements makes elections cost more.

While the legislative analysis of SB 113 did anticipate higher costs—$48 to $80 million—than the 2005 special election, and the multi-pronged rationale provided may hold some merit, the Administration has provided insufficient evidence to fully address the following challenges to the above rationale:

1. The counties knew this was a primary election going in, so why were their estimates still significantly lower than the actual costs claimed?
2. How significant of a cost driver was the switch to paper ballots? Does it account for most, or only some of the costs above and beyond the original estimate?
3. The Counties asked that SB 113 provide that the early primary be a vote-by-mail (VBM) election only, and have argued in the past that VBM saves money. So, the claim that VBM is now more expensive seems contradictory.
4. Equipment costs should not be part of this. Any equipment used in February can be used again in June and November. This is not a special election cost. It is something counties would have to pay for regardless of the special election. Additionally, didn't the counties receive HAVA money from the federal government for this? Why should equipment costs be a cost driver in this instance?

Staff notes that some of the election costs are state mandate reimbursable (SB 90), while others are merely reimbursable as a matter of precedent. The DOF estimated the counties' election costs at $75.0 million, and yet approved this request containing an additional $14.6 million in unanticipated costs. The Subcommittee may wish to ask the DOF the following questions:

1. Did the DOF estimate of $75.0 million include all county election costs (both mandate-reimbursable as well as merely "reimbursable") or did it exclude mandate-reimbursable costs?
2. If the DOF estimate contemplated all of the costs, and is fully comparable to the nearly $90 million in reimbursement requested by the counties, what due diligence did the DOF conduct, considering that this is GF, in order to determine that the additional costs were all legitimate?

It appears that the legislative intent was to reimburse the counties in-full for the costs incurred by the early presidential primary held under SB 113. However, in light of the higher than estimated costs, the current fiscal crisis, and the lack of clear answers to the questions raised above, the Legislature may wish to conduct an audit to confirm the validity of all of the counties' costs.

Staff Recommendation: APPROVE placeholder TBL requiring the SCO to audit the counties' costs. Additionally, APPROVE initial expenditure authority of $48.0 million (consistent with the low-end of the original legislative estimate), and include provisional language (see below) authorizing the Department of Finance to augment the appropriation consistent with the findings of the audit.

> *X. Notwithstanding any other provision of law, upon completion, and consistent with the findings, of an audit by the State Controller, the Director of the Department of Finance may increase the funding in this item by an amount not to exceed $89,600,000 to pay for the reasonable costs of the counties associated with the Presidential Primary Election of 2008. The Director of Finance shall notify in writing the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee 30 days prior to making any such adjustment.*

VOTE:

2. Trailer Bill Language (TBL) Necessary to Implement Ten-Percent GF Reduction. The Subcommittee previously approved a $3.5 million GF reduction in costs associated with the printing and mailing of the Voter Information Guide (VIG); however, certain revisions to statute are necessary in order for the SOS to carry out the proposal.

Staff Recommendation: APPROVE the TBL necessary to carry out the previously approved reduction, but with a one-year sunset on the new one-VIG-per-address provision (see Attachment 2 for language).

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and 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 procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of $1.2 billion (including $7.9 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $794,000, to be taken from State Capitol maintenance and repairs program (see Vote-Only Item #1).

VOTE-ONLY ITEMS:

1. BCP-1: School Facilities Program (SFP)—Fiscal Services Staffing. The DGS requests 7.0 positions (including 1.0 two-year limited-term position) and $740,000 (School Facilities Fund) for the Office of Public School Construction (OPSC) to address SFP audits, and to establish an automated and integrated audit information system.

Staff Comments: As discussed at a previous hearing, the SFP workload has grown significantly in recent years due to the authorization of over $35.0 million in school facilities bond funding since 1998. While over $23.0 billion of this school facilities funding has already been apportioned and billions more will flow "out the door" in the coming years, the fact that the each project can take more than nine years to go from application to closeout means that OPSC's SFP workload is only beginning to peak, and will almost certainly continue for the next ten years.

The Subcommittee previously held this item open in order to provide Senate Budget Subcommittee #1 (on Education) the opportunity to hear and comment on this proposal. At a hearing on May 13, that subcommittee recommended approval of this request.

Staff Recommendation: APPROVE the request.

2. BCP-2: Williams Settlement-Program Services Staffing for the Emergency Repair Program (ERP). The DGS requests 2.0 positions and $217,000 GF to process, review, and approve, in a timely manner, emergency repair requests from school districts seeking funding under the Williams Settlement.

Staff Comments: As discussed at a previous hearing, the transformation of the ERP from a reimbursement program to a grant program significantly increased demand for the funds available under the Williams Settlement, such that the OPSC anticipates 5,125 ERP applications over the next three years. Although, according to the OPSC, this projected workload would ordinarily justify 8.0 positions, the OPSC conservatively requests 2.0 positions to address increased ERP applications.

Similar to Discussion Item 1 above, the Subcommittee previously held this item open in order to provide Senate Budget Subcommittee #1 (on Education) the opportunity to hear and comment on the proposal. At a hearing on April 29, that subcommittee recommended approval of this request. However, in light of the deepening fiscal crisis reflected in the May Revise, and the minimal amount of additional project funding that is anticipated to flow to the ERP as a result, the Subcommittee may wish to consider denying this request. Notwithstanding the increased number of applications anticipated by the OPSC based on currently available funding, existing staff ought to be sufficient to approve the projects for which there is funding (and the state should not be spending previous additional GF in order to approve projects for which there may not be ready funding).

Staff Recommendation: DENY the request, and score $217,000 in GF savings.

3. TBL: Shift ERP Audit Responsibilities to Counties. The Administration proposes Budget Trailer Bill Language (TBL) to require a county superintendent or his or her designee to conduct financial and compliance audits of school districts within his or her county that obtained ERP funds.

Staff Comments: Similar to the ERP issue above (Item 2), this item was discussed at a previous subcommittee and held open pending comment from the Senate Budget Subcommittee #1. At a hearing on April 29, that subcommittee recommended denial of this request due to concerns about local mandated costs as well as questions as to whether county offices of education staff have the expertise to conduct these project audits.

Staff Recommendation: DENY the TBL.

4. Capital Outlay FL: Renovation of H and J Buildings—Patton State Hospital. The DGS requests reappropriation of $2,017,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990), originally approved in FY 2007-08 for working drawings in the renovation of buildings H and J at Patton State Hospital.

Staff Comment: This item was previously discussed, but held open pending additional information from the DGS on how long it would take to "repay" the additional costs incurred to incorporate Leadership in Energy Efficient Design—New Construction (LEED-NC) principles into the project. The DGS estimates anticipated annual energy costs avoided of approximately $25,000, meaning it will require approximately six years to pay-off the roughly $150,000 in additional costs incurred due to the potential one month schedule extension required for LEED-NC design.

Staff Recommendation: APPROVE the request.

VOTE on Staff Recommendation for Vote-Only Items 1 through 4:

DISCUSSION ITEMS:

1. BCP-13: Architecture Revolving Fund (ARF) Deficit. The Administration notified the Legislature via this BCP that, at the time of the Governor's Budget, there was a $14.7 million deficit within the DGS' ARF. The DGS outlined an initial multi-faceted plan to resolve the ARF deficit, but, based upon additional discussion within the Administration, returned in May with a formal Action Plan to address the growing problem.

Staff Comment: Although this item was discussed at an earlier hearing and held open, the following provides a brief overview/review of the issue:

> The ARF is a depository for moneys appropriated for new construction, major construction and equipment, minor construction, maintenance and equipment, and other building improvement projects. According to the DGS, the deficit condition has occurred in 11 of the past 12 years and is the result of several factors, including the following:
>
> - **Construction Delays**—Delays have resulted in construction costs that, due to inflation, far exceed project estimates.
> - **Budget Package Rates Set Too Far in Advance**—Hourly rates in budget packages are set five years in advance to accommodate the state budget process which means that they do not account for incremental changes in employee compensation, retirement adjustments, or escalation of construction costs.
> - **Cancelled Projects**—On large projects the DGS receives a loan to cover initial project costs, but when a project is suddenly canceled the DGS is forced to absorb the now unfunded costs in the ARF.
> - **Unfunded Projects**—The DGS is frequently requested to perform alteration and construction projects for the Administration's central service agencies which are unbudgeted and do not have fund sources.
>
> The DGS reports that between 2002-03 and 2006-07, a total of 902 ARF projects closed in a deficit position.

At the previous hearing, the Chair requested the DGS to provide (before the close of budget subcommittees): (1) the number of "unbudgeted/unfunded" projects; (2) assurances that the DGS has ceased the practice of ordering work on such projects; and (3) a plan going forward (either a final ARF deficit action plan, or the most up-to-date version of an unfinished plan). Subsequently, the Administration submitted an "ARF Deficit Action Plan" containing the following key points:

- Based on additional reconciliation of records primarily from non-closed projects, **the DGS now estimates the ARF deficit at $27.2 million** (or almost double the original estimate).
- The Administration plans to address the ARF deficit in an entirely prospective manner by **levying a 3.119-percent surcharge** on specified new ARF-funded projects, rather than attempting to identify, allocate, and recover costs directly from state agencies for specified unfunded or under-funded projects. The Administration believes this approach will better enable client agencies to anticipate and budget for the costs, and will minimize the workload on the DGS and client agencies.

- The ARF surcharge would be implemented beginning in FY 2008-09 and run through FY 2012-13, by which time the DGS anticipates the deficit would be fully recovered and a **$1.0 million reserve** would be in place.
- DGS is already, or is planning to, doing each of the following to further address the ARF deficit:
  - Additional budget training for DGS staff.
  - Reissue a revised Administrative Order 06-14 to enhance system controls and ensure that no project is initiated until available funds are identified to pay for the project.
  - Meet with the Department of Finance monthly to provide status updates.
  - Implement a training program for project directors and project managers.
  - Augment non-closed capital outlay deficit projects through the existing capital process so that actual project costs are accurately reflected.
  - Develop and distribute a Management Memo to all state agencies with direction on the appropriate use of the ARF.
- During the 2009-10 budget process, the DGS plans to propose:
  - A shift of $43.6 million in positions-related expenditures (including operating expenses and equipment) from the ARF to the Service Revolving Fund (SRF) in recognition of the fact that the ARF is not a true fund. Rather, services rendered by positions currently funded by the ARF should be funded by the SRF and reimbursed by the ARF to the extent work is performed/funding is deposited.
  - Exclusion of the ARF from the Statewide Prorata assessment.

Based on the action plan and supplementary information provided by the Administration, the Subcommittee may wish to follow-up with some or all of the following questions:

1. Who is ultimately responsible for ordering projects to go forward without funding in the ARF? What assurance can the Administration provide that work of this kind will not occur in the future—that is, without funding—even when there is an overwhelming political, to do so?
2. While the mere existence of unfunded projects is concerning, under-funded projects appear to be a far larger problem. The Administration's "prospective" approach to the ARF deficit, through the use of a surcharge, has appeal because of its ease of implementation, but doesn't it potentially let some departments off the hook for costs that are legitimately theirs to bear, while unduly burdening other departments who must repay more than their fair share? Is it at all feasible to have departments whose "underfunded" projects make up a disproportionate share of the deficit (relative to their current share of DGS costs) pay back their share independent of the surcharge?
3. Why should we create a $1.0 million reserve for a "revolving" fund? Shouldn't the ARF operate under the principle of "a dollar in—a dollar out?" Wouldn't a reserve act a like a "slush" fund for unfunded projects and further perpetuate the current problem?

Staff Recommendation: APPROVE placeholder control section language that would generally require the DGS to do the following:

1. Allocate approximately $14.2 million in unfunded or underfunded project costs to the department responsible for incurring the costs, and develop a plan for repaying those funds to the ARF.

2. Develop a surcharge rate methodology that will enable the remainder of the ARF deficit (approximately $13.0 million) to be repaid within five years.
3. Require the DGS to report to the Legislature at regular intervals (at least annually) on progress toward reforming ARF-related budget and accounting practices, and correction of the ARF deficit.
4. Require the DGS to report to the Legislature on any unfunded project costs incurred.
5. Prohibit the establishment of an ARF reserve or "slush" fund.

VOTE:

5. BCP-8: Real Estate Leasing and Space Planning Workload. The DGS requests 19.0 permanent and 4.0 limited-term positions and $1.9 million (Service Revolving Fund) in order to address a backlog of leasing and planning workload.

Staff Comment: This item was heard on March 26, 2008, and denied due to insufficient justification in light of the state's fiscal crisis; however, the Chair offered reconsideration if the DGS could show that the request would directly impact health and safety, and/or generate off-setting savings. Subsequently, the DGS provided the following information:

- *State programs are impacted by [DGS'] inability to move quickly in providing the services requested in terms of increased costs for leased space. Funding the BCP will ensure* ***annual cost avoidance of $24.9 million*** *composed of:*
    - *Lost opportunities to negotiate lower rates ($15.94 million – 99% probability of occurrence)*
    - *Unscheduled rent increases ($1.38 million – 95% probability of occurrence)*
    - *Forced moves and evictions ($7.59 million – 80% probability of occurrence).*
- *The BCP documents 85.22 average weeks of backlog per planner in July 2007. In January 2008, the average weeks of backlog per planner went up to 91.99 and in the last report for April 2008, the average weeks of backlog for planners was up to 96.87.*

According to the DGS, approximately one-third of all state leases are in the renewal process at any given time, and the state occupies a relatively stronger bargaining position when renewing a lease if the negotiations with the landlord are initiated 6 to 8 months in advance of the expiration instead of afterward. The difference in price may be only $0.15 to $0.25 per square foot, but because the DGS manages 1,861 leases or about 18.9 million square feet, the potential savings (realized or lost) runs into the millions of dollar, per year (as noted above). While staff acknowledges the general validity of the DGS argument, the Subcommittee may wish to adopt supplemental report language requiring the DGS to document the actual savings realized if any or all of the requested positions are approved.

Notwithstanding the logic of the DGS business case, staff notes that at least 4.0 of the requested positions associated with the implementation of the Federal REAL ID Act are not justified because the projected workload is overly speculative at this time. The federal government recently granted the states additional time to implement the REAL ID Act and, therefore, the state has opted not to take immediate steps to acquire the 17 new Department of Motor Vehicle facilities referenced in the BCP as part of the workload justification.

Staff Recommendation: Upon reconsideration, APPROVE 15.0 permanent positions and 4.0 limited-term positions. APPROVE the following SRL requiring the DGS to track RELPS workload and document the actual savings realized by addition of the approved positions:

1. *The department shall provide a report to the Legislature by May 1, 2009, comparing the current Work-on-Hand (backlog) to benchmarked data as of May 1, 2008.*
2. *The department shall provide a report to the Legislature by May 1, 2009, comparing the Lessor's proposed lease rate to the final lease rate negotiated by the State.*

VOTE:

6. BCP-9: State-Owned Space Planning Workload. The DGS requests 7.0 positions and $614,000 (Service Revolving Fund) in order to address a backlog of space planning projects within state-owned facilities.

Staff Comment: Similar to Discussion Item 5 above, this item was heard previously and denied due to insufficient justification in light of the state's fiscal crisis; however, the Chair offered reconsideration if the DGS could show that the request would directly impact health and safety, and/or generate off-setting savings. In subsequent discussions with staff, the DGS provided information to support its claim that the request would result in FY 2008-09 cost avoidances of:

- $3.7 million in decreased private lease payments by maximizing/optimizing the use of existing state-owned space;
- $540,000 in private lease payments and an increase of $388,800 in increased rental income by converting vacant state-owned retail space;
- $392,000 in project cost inflation by reducing project delivery by approximately nine months.

While these estimated cost avoidances would more than off-set the cost of the requested positions, staff notes concern that similar cost avoidances might be achieved without requiring as many staff if, in tough fiscal times, the DGS prioritized projects according to their cost/benefit to the state. Based on conversations with the department, it is staff's understanding that projects with immediate health and safety implications are given immediate attention (as they should be), but all others are addressed more or less in the order in which they are received. According to the DGS, the 2007-08 workload for the Design Services-Studio 1 consists of 284 projects, which break down as follows:

(5) Fire & Life Safety – Projects and requests due to building safety systems not being in order (i.e. fire alarm, fire sprinklers, fire walls).

(2) Emergency – Architectural projects needing immediate attention in order to preserve/restore safety or prevent further loss of State property.

(17) ADA Access Compliance-Related – Projects & requests responding to physical access by persons with disabilities (i.e. reasonable accommodation requests, response to ADA physical barrier complaints, corrections of deficiencies, etc.).

(26) Security Related – Projects dealing with physical security and defense of the State (i.e. Bullet-resistant lobbies and windows, access security systems, video surveillance, Dept. of Homeland Security/DOJ projects).

(24) Consolidation – Projects related to creating and optimizing space in State-owned buildings in order to reduce the use of private lease space.

(2) Convert Retail to Office Space – Vacant retail space being converted to state tenant office space.

(47) Modular Furnishings & Related Electrical

(132) Tenant Improvements – Projects involving hard wall modifications, mechanical & electrical changes; may include modular furnishings, paint and carpet as part of the scope.

(29) Other – Miscellaneous other requests (i.e. water intrusion, space assignments, signage, maintenance replacement design).

Based on even a cursory review, it becomes evident that roughly one-quarter of the projects identified above would immediately qualify as high priority either due to health and safety (fire & life safety, emergency, ADA Compliance, and security) or the potential for cost savings (consolidation and conversion of retail to office space). This leaves 208 projects (or 73 percent of the total projects) that are not clearly or readily identifiable as meeting the Subcommittee's fiscal-crisis definition of requiring immediate resources/attention. Setting aside the group of modular furnishings and related electrical projects, staff requested additional detail on the roughly 160 (or approximately 50 percent) of projects that fall under the categories of tenant improvements and "other," and subsequently determined that some, but by no means all, of the projects meet the fiscal-crisis criteria set by the Subcommittee this spring when considering additional funding for departments.

If the 284 projects identified as current-year workload are representative of the backlogged workload for which the DGS is requesting this increase, then the department has failed to provide adequate justification for approximately half of the positions requested. Given that approximately one-quarter of current projects clearly meet the Subcommittee's criteria and some additional increment would likely lead to increased efficiencies, the Subcommittee may wish to approve a partial compliment of 3.0 of the 7.0 request positions (including a Staff Space Planner, an Associate Space Planner, and Temporary Help (Retired Annuitant) Senior Architect).

Staff Recommendation: Upon reconsideration, APPROVE 3.0 positions (as described above).

VOTE:

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the 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 DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 805.5 positions (a net increase of 37.7 positions relative to current year adjusted totals) and expenditures of $279.6 million (special fund).

DISCUSSION ITEM:

FL: New Central California Data Center—Request for Long-Term Lease with Purchase Option Authority. The DTS requests provisional language to be added to Item 1955-001-9730 to authorize the DGS to enter into a long-term lease with purchase option for a new Central California data center.

Staff Comment: This item was discussed at a previous hearing and held open to permit staff more time to consider the proposed language. Subsequently, the LAO recommended that the Subcommittee adopt the following revised provisional language to require the DTS to report on the rate impact to customer department invoices that would result from this estimated $117.0 million project"

> *The Department of General Services, with the consent of the Department of Technology Services, may enter into a lease-purchase agreement for a build-to-suit facility to develop a data center in the Central Valley, subject to Department of Finance approval of the terms and conditions of the agreement. Thirty days prior to entering into any agreement, the Department of General Services shall notify the chairperson of the committee in each house which considers appropriations and the Joint Legislative Budget Committee of terms and conditions of the agreement. This notification shall include an analysis of the associated rate impact to customer department invoices. If the Joint Legislative Budget committee does not express any opposition or concerns, the Department of General Services may proceed with the agreement 30 days after giving notice.*

Staff Recommendation: APPROVE the LAO's revised provisional language (above).

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.

The Governor's Budget begins by funding 659.2 positions (including 54.0 new positions) and budget expenditures of $1.1 billion (including $16.0 million GF) for the department, but then includes a 10-percent, across-the-board GF reductions (BBRs) totaling approximately $1.3 million.

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $37.0 million in funding from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) – down by approximately $49.0 million from 2006-07 due to the exhaustion of the bond funds. The budget also includes approximately $771.0 million (excluding administrative costs) from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Portions of Prop 1C funds are continuously appropriated, and the HCD is using this existing authority to expend $973.0 million in Prop 1C funds in FY 2007-08.

The second largest revenue source is federal funds, estimated at $174.5 million in 2008-09, which is about the same as 2007-08. Remaining expenditures of about $77 million are covered by the GF ($14.7 million), fees, and other miscellaneous revenues.

VOTE-ONLY ITEMS:

1. FL-1: Local Agency Code Enforcement—Transfer of Local Agency Responsibility to the HCD. The HCD requests 5.0 positions and $521,000 (special fund) to address the transfer from local agencies of code enforcement responsibilities for mobilehomes and special occupancy parks back to the state.

Staff Comment: This item was previously heard and held open to allow the maximum time possible for the Legislature to learn whether San Bernardino County will indeed return its enforcement responsibilities to the state. However, to date, the county has not made a final decision, so staff recommends that the Subcommittee approve the proposed resources as well as the provisional language that makes those resources contingent upon the transfer of the local agency responsibility to the HCD.

Staff Recommendation: APPROVE the request.

VOTE:

2. BBR: Emergency Housing Assistance Program. The Governor proposes a reduction of $401,000 GF to this program, which helps to fund local homeless shelters, providing a portion of the funding for approximately 19,000 shelter spaces annually.

Staff Comment: This item was previously heard and held open in order to try and identify funding to bridge the gap between current funding levels and the Governor's proposed reduction. However, given the state's deteriorating fiscal outlook, "bridge" funding is not available at this time. As previously noted, the state currently provides about 10 percent of the overall funding for local homeless shelters. Although the amounts awarded to shelters vary, on average this proposal would result in a 1-percent reduction in total funding for each of 19,000 shelter spaces.

Staff Recommendation: DENY the reduction.

VOTE:

DISCUSSION ITEMS:

1. BBR: Office of Migrant Services (OMS). The Governor proposes an annualized reduction of $687,000 to the OMS program, which provides safe, decent, and affordable seasonal rental housing and support services for migrant farmworker families during the peak harvest season. The 2008-09 Governor's Budget assumes only $343,000 in savings in the Budget Year due to the lag time required to implement the reduction.

Staff Comment: As discussed at a previous hearing, the HCD originally estimated the state would need to shut down four to six of the 25 OMS Centers to achieve the budgeted savings; however, during the special session the HCD was able to eliminate state funding from one center (Firebaugh) while the locals kept the facility open utilizing reserve funds. This arrangement saved approximately $202,000 GF, but still requires the department to find an additional $141,000 in savings in the budget year.

Since the special session, the HCD has applied for federal grant funds to rehabilitate up to six centers that currently have Rural Development (RD) loans from the United States Department of Agriculture. At a prior hearing, this Subcommittee approved the authority to spend those funds. While the HCD is very optimistic that the state will successfully compete for sufficient funds to offset the remainder of this proposed reduction, the Subcommittee must still weigh the possibility that these funds will not materialize, in which case the program would have to find another way to take the reduction.

According to the HCD, if federal funding is not available, there is a possibility that additional local agencies could be identified to take responsibility for two to four migrant centers and reduce the state's expenditure liability (similar to Firebaugh). However, barring this, the worst case scenario would involve the closure of two to four centers beginning with the 2009 growing season (Spring 2009). The HCD would determine which centers to close based on the following criteria, listed in priority order:

- **Vacancy rate** – The centers with the highest vacancy rate would be closed first.
- **Condition of center** – The centers that require the largest dollar amount of rehabilitation and deferred maintenance would be closed next.
- **Available alternative housing** – Centers in communities that have other migrant farmworker housing available would be closed next.
- **Geographic proximity to work opportunities for residents** – Centers that are furthest from work opportunities would be considered for closure next.

- **Availability of other resources to operate or groups to take over operation of the center** – Communities where other operators and resources are identified to produce migrant farmworker housing in the near future, within two years.

If the Subcommittee is averse to the potential closing of any OMS centers, it may wish to consider making the proposed reduction contingent upon receipt of federal funding by adding the following provision to Item 2240-101-0001:

> *2. Notwithstanding any other provision of law, upon receipt of federal funds for the rehabilitation of migrant farmworker housing, the Director of the Department of Finance may reduce funding in this item for the Office of Migrant Services by an amount not to exceed $343,000 or the level of federal funding awarded, whichever is less, not sooner than 30 days after notification in writing of the necessity therfor is provided to the chairpersons of the fiscal committees in each house of the Legislature and 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 in each instance determine.*

Staff Recommendation: DENY the reduction, but APPROVE provisional language (above) to enable GF savings to be realized if the HCD receives federal funds for the migrant centers.

VOTE:

2. Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Prop 1C provided for a general obligation bond issuance not to exceed $2.85 billion. The Governor proposes to award $771.0 million in Prop 1C revenues in 2008-09, on top of the $973.0 million estimated to be expended in the current fiscal year and $162.0 million awarded in FY 2006-07.

Staff Comment: As discussed at a previous hearing, some Prop 1C programs are continuously appropriated, while others require a Budget Act appropriation to authorize expenditure. Two of the programs requiring Budget Act appropriation, the Infill Incentive Program (Infill) and the Transit-Oriented Development Program (TOD) have experienced greater than anticipated demand in FY 2007-08:

- Infill was budgeted at $300 million, released a Notice of Fund Availability (NOFA) for $240 million, and received approximately $1 billion in applications.
- TOD was budgeted at and released a NOFA for $95 million and received $544 in applications.

The HCD has expressed an interest in providing more funding for the current NOFAs (above), but would prefer to obtain a supplemental appropriation on an urgency basis rather than wait for additional funding in the Budget Act of 2008. However, as an alternative to a supplemental appropriation (which would have to be approved outside the budget process), the Subcommittee may wish to increase the FY 2008-09 appropriation for these programs. The additional funds could either be used to provide additional awards (but at a later date than the first round of awards) under the current NOFA, or could augment the amount of award dollars made under a second NOFA in 2009. While the HCD has indicated that Infill could be successfully increased by $100 million, and TOD by $50 million, the Subcommittee will want the HCD to state a preference as to whether a Budget Act increase would be most effectively applied toward the first round of NOFAs or a second round.

Staff Recommendation: INCREASE Prop 1C funding for the Infill and TOD programs by $100 million and $45 million, respectively.

VOTE:

<u>Prop 1C—Housing Urban-Suburban-and-Rural Parks Program (Items 3 & 4)</u>

The following two items should be considered and voted upon together.

3. BCP-11: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes: (1) trailer bill language (TBL) to implement the Housing Urban-Suburban-and-Rural Parks (Housing-Related Parks) Program created under Prop 1C; (2) 2.0 positions and $583,000 (bond funds), including $350,000 for an interagency agreement with the Department of Parks and Recreation (DPR) to fund state operations of the Housing-Related Parks Program; and (3) Budget Act authority to award $30 million in bond funds to qualifying projects for housing-related parks.

Staff Comments: As discussed at a previous hearing, the Governor's Budget contains funding to support a program in which the HCD would implement a Housing-Related Parks Program in conjunction with the DPR. However, the Governor has proposed changes to the structure and the funding of the program in the May Revise (see Discussion Item 4 below).

4. May Revise Letter: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes the following changes to his original Housing-Related Parks proposal (described in Discussion Item 3 above): (1) reduce HCD operations by $124,000 (special funds) and 2.0 positions; (2) shift all administrative responsibilities previously proposed to reside with the DPR to the HCD; and (3) revise the conditions under which bonus awards may be granted to applicants.

Staff Comments: While the Governor's latest proposal moves away from targeting Housing-Related Parks dollars at areas underserved by parks and shifts implementation of the program entirely into the hands of the HCD, Senate staff have developed alternative language (contained in Attachment 3) that would set various housing requirements (including housing for low-income households) as a threshold for participation in the program, but require applicants to compete for award dollars based on the need for the proposed park. Attachment 4 contains a more exhaustive comparison of the two proposals, but the following table summarizes the primary differences:

Trailer Bill Language – As Amended in May Revise	**Competitive Parks Program with Housing Eligibility Alternative**
Deletes previous provision requiring jurisdictions must be critically underserved by park and recreation facilities as established by DPR. HCD to establish eligible types of park projects using definitions provided by and previously established by DPR.	Priority given to projects that will provide park and recreation access for a parks-underserved community. (Competitive program with guidelines developed by DPR).
No provision related to affordable housing except for bonus funds.	Grant eligibility dependent upon issuance of building permits for new units that are affordable to very low or low-income households. The amount that a jurisdiction may receive from the competitive program is dependent on the number of units approved.
Bonus funds awarded to the following: • Units affordable to very low and low-income households developed in infill projects. • Jurisdictions that have met or exceeded housing thresholds established by HCD, in consultation with DOF. • Housing starts for units that are affordable to lower income households.	Priority given to projects for the following: • Units affordable to very low and low-income households developed in infill projects • Qualifying units affordable to extremely low-income households. • Jurisdictions that have projects that will develop park and recreation access to a parks underserved community • Park projects that were selected and developed with the cooperation of the community whom the project is meant to serve and any appropriate parks district.
Not addressed.	Provides that every applicant for a grant must comply with the following: • Operate and maintain property so that it is usable by residents of the targeted critically underserved community. Allow the applicant to transfer the property to another entity if approved by DPR. • Use the property only for the purposes for which the grant was made. If the property is sold or disposed, of the grant recipient shall reimburse the state an amount equal to the amount of the grant. Instead of seeking reimbursement, DPR may impose restrictions on the use of public park property.

While both of the proposed programs would use park funding to incentivize the production of housing, should the members choose to focus limited Housing-Related Parks dollars specifically on promoting low-income housing production and development of parks in the most park-underserved areas, the Subcommittee may wish to adopt the Senate's alternative TBL.

Staff Recommendation: DENY the Governor's May Revise proposal and APPROVE the Senate's alternative TBL (contained in Attachment 3).

VOTE:

8940 Military Department

The California Military Department (CMD) 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 (CNG) is to provide military service supporting this state and the nation. The three missions of the CNG are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The CMD is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the CMD also receives Federal Funding directly from the Department of Defense.

The Governor's Budget begins by funding 888.5 positions (a net increase of 77.0 positions over adjusted current year totals) and budget expenditures of $146.5 million (including $47.5 million GF) for the department, but then includes 10-percent, across-the-board, GF reductions (BBRs) of approximately $4.6 million.

VOTE-ONLY ITEMS:

1. BBR: California National Guard Youth Programs. The Governor proposes a reduction of $1.2 million GF and 6.0 positions to this program, which operates five youth programs located throughout the state.

Staff Comment: This item was heard previously and held open due to the need to further discuss interactions with the item below (Vote-Only Item 2).

According to the CMD, the proposed reduction would be taken in the following manner: (1) Headquarters of Youth Programs: 1 PY in management; (2) Oakland Military Institute: 1 PY dedicated to student supervision and training; (3) Grizzly Youth Academy: $212,000 in state funding, $318,000 in federal funding, and 1 PY, requiring it to serve 90-100 fewer students annually; (4) Challenge Support: $56,000 and 1 PY and resulting in difficulty in reaching the graduation requirement of 200 students; and (5) Sunburst Youth Academy: $100,000 in state funding, $200,000 in federal funding, and 1 PY, requiring it to serve 80-90 fewer students annually.

Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

2. FL: Sunburst Youth Academy Staff and Operating Funds. The CMD requests 3.0 positions and $280,000 (federal funds) for the Youth ChalleNGe Program at Los Alamitos Joint Forces Training Base.

Staff Comment: This item was previously heard and held open. Based on additional conversations with the department, staff now understands that, although this request did not come forward until April, the funding was anticipated and factored into the proposed reduction in the Sunburst program (see Vote-Only Item 1 above). Therefore, unless the Subcommittee wishes to cut more deeply into the program, this Item should be approved if the related reduction above is going to be approved.

Staff Recommendation on Vote-Only Items 1 and 2: APPROVE as budgeted.

VOTE:

DISCUSSION ITEM:

BCP-3: Joint Operations Center (JOC) Staffing. The CMD requests 14.0 positions and $1.3 million GF for the JOC to provide immediate response to the Governor's Office, Office of Emergency Services (OES), and the public during disasters and special security events.

Staff Comments: This item was discussed at a previous hearing and held open. The Governor's request would fully backfill expiring federal funding that has enabled the state to maintain an all-time historic high emergency response capability. In light of the deepening fiscal crisis reflected in the May Revise, the Subcommittee way wish to consider approving a more measured funding approach, as opposed to increasing the JOC GF to an all-time high.

Given the scarcity of GF, the subcommittee may also wish to have the CMD provide several alternative scenarios involving reduced staffing levels (and, therefore, savings to the GF). For example, staff notes that the BCP includes an alternative in which $376,000 GF could be used to support 4.0 positions that would still allow 24/7 JOC staffing, but at a level of 1.0 position per shift instead of 3.0.

Staff Recommendation: DENY 10.0 positions and $959,000 and APPROVE 4.0 positions and $376,000 to maintain 24/7 JOC staffing.

VOTE:

Attachment 1

Program Functions that should be exempt from Reduction

10% General Fund reduction to SCO's 2008-09 Budget:	**$8,986,000**
Workload Budget Adjustments	
21st Century Project—Currently, the budget includes $21.9 million General Fund for the 21st Century Human Resources Management System project. This project is funded year-to-year through annual Budget Change Proposals and is not part of the SCO's baseline budget. To the extent that this funding is not removed, this reduction would result in termination of the project because reductions would have to be applied to state staff and SCO would be unable to meet requirements pursuant to the contract. Furthermore, exempting this project from the reduction would treat this consistent with the California Child Support Automation System project (CCSAS) to minimize unnecessary added risk to the project.	-$2,190,000
Special Fund Agency Services Funded by Prorata—The SCO provides constitutionally-mandated services for special fund agencies. Although the appropriation to SCO for these services is provided from the General Fund, these costs are recovered through a prorata assessment on those special funds. Of the $50.1 million General Fund central service functions provided by SCO, approximately 36 percent or $18 million is attributable to special funds. Therefore, the General Fund workload budget should be reduced by $18 million and correspondingly eliminate $1.8 million from the reduction.	-$1,800,000
Constitutional or Revenue Generating Consideration	
Revenue Generating Audit Functions—SCO's Audit programs generate hundreds of millions annually to the General Fund in revenue and/or cost savings to the State. Approximately $9.1 million funds the field audit functions for SCO and a 10 percent reduction to this program would result in a revenue loss of approximately $9 million General Fund. These functions should be spared from the 10% reduction as they were for the Franchise Tax Board and the Board of Equalization. These two departments were expanded in recognition of their revenue-generating capabilities.	-914,000
Constitutional Office—The direct support for the constitutional office of the State Controller and his policy representatives on statewide boards and commissions, including the Franchise Tax Board, Board of Equalization, State Teachers Retirement System, etc. must be maintained ($1,949,000)	-$195,000

Constitutionally Mandated Services—The SCO provides constitutionally-mandated services to General Fund agencies, business partners, employees and local governments. The disbursement of warrants, the accounting of the State's books, and the processing of payroll remain core business requirements that must be maintained. Reductions to these programs could result in late payments that would include $43 billion apportionments to local governments, which could result in cash flow problems for these entities. Other impacts could be late payments to vendors, late payroll for state employees and IHSS providers and both state and local retirement checks.	-$3,200,000
Balance of General Fund Reduction	**$687,000**
Reduce Travel, Training and General Expense	**$413,000**
Total General Fund Reduction	**$1,100,000**

The removal of the core functions listed above from the total General Fund portion of SCO's budget subject to the 10 percent reduction leaves $6,870,000 to which a reduction could be applied. This funding provides support for such activities as providing financial reports to State decision makers; tax administration programs that collect loans due to the state and provide relief to the disabled, aged and blind; and the investigation of fraud, forgery and identity theft against the State and its employees. Furthermore, I have identified approximately $413,000 in 2008-09 in operating expenses that can be reduced and not jeopardize critical program functions.

Attachment 2

SOS—TBL Necessary to Implement Ten-Percent GF Reduction.

Elections Code:

9090. The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in eight-point type.
(b) The pamphlet shall be of a size and printed on a quality and weight of paper which, in the judgment of the Secretary of State, best serves the voters.
(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same postal address. Section 9094(a) shall remain in effect through June 30, 2009, but, as of July 1, 2009, is repealed and replaced by the following:

(a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on unless a voter has registered fewer than 29 days before the election. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county elections official shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

Attachment 3

Senate-Proposed Housing-Related Parks Program TBL.

This language establishes a competitive parks program run by the Department of Parks and Recreation with assistance of the Department of Housing and Community Development. HCD will determine who qualifies and the amount for which they qualify based on the number of affordable housing units that a city or county builds. Qualifying jurisdictions may then submit park projects to DPR who will rank and fund the projects on a competitive basis.

This hybrid proposal would reward local governments that build affordable housing by giving them eligibility to compete and would incorporate a competitive element to assure that the program funds the best park projects available throughout the state.

Add Chapter ___, Section XXX to the Public Resources Code:

XXX. For the purposes of implementing subdivision (d) of Section 53545 of the Health and Safety Code, the department, in conjunction with the Department of Housing and Community Development, shall develop a competitive grant program to distribute funds for acquiring, developing, and expanding local and regional parks to cities, counties, and cities and counties that:

(a) Have park underserved communities and

(b) Issue building permits for housing developments consisting of newly constructed units that are affordable to very low or low-income households.

XXX.1 For the purposes of this chapter, the following terms have the following meaning:

(a) "City" means a city or a city and county.

(b) "Department" means the Department of Parks and Recreation.

(c) “Infill project” means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. A property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.

(d) "Park district" means a recreation and park district formed under Chapter 4 (commencing with Section 5780) of Division 5; a public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; a memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code; a community service district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized area that is authorized to provide public recreation as specified in subdivision (e) of Section 61100 of the Government Code; and a county service area, or zone therein, within the County of San Bernardino that is empowered to provide public park and recreation services pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, that is actually providing public park and recreation services, and that was reorganized prior to January 1, 1987, from a park and recreation district to a county service area or zone.

(e) "Regional park district" means a regional park district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5.

(f)"Urbanized area" means an incorporated city or an urbanized area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an urban area or urban cluster, the area must be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water.

(g) “Urban uses” mean any residential, commercial, industrial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

XXX.2 (a) The competitive grant program shall offer funding for park projects that meet all of the following:

(1) Either acquires a new park, develop a new park, or expand an overused park,

(2) Provides a new park or a new recreational opportunity, and

(3) Are within the jurisdiction of the eligible applicant.

(b) To be eligible for funding, the applicant must meet minimum requirements established by the Department of Housing and Community Development. At a minimum, an eligible applicant must be a city, county, or city and county, that has:

(1) Adopted a housing element that the Department of Housing and Community Development, pursuant to Section 65585 of the Government code, has found to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of chapter 3 of Division 1 of Title 7 of the Government Code, and the jurisdiction has submitted to the Department of Housing and Community Development the annual progress report required under Section 65400 of the Government Code within the preceding 12 months.

(2) Issued a building permit for a housing development that consists of newly constructed units that are affordable to very low or low-income household within the designated time period and that meets either of the following criteria:

(A) In the case of rental units, the development is subject to a regulatory agreement recorded against the property that obligates the owner to maintain rents on the restricted units at levels affordable to very low or low-income households for at least 55 years.

(B) In the case of ownership housing, units in the development are initially sold to households of very low or low income at an affordable housing cost. If public funds are used to achieve an affordable housing cost, then upon the sale of an assisted unit to a low- or very low income household, the public entity shall ensure the repayment of the public funds and reuse of those funds for affordable housing for a period of at least 20 years. The proposed mechanism for restrictions of ownership units shall be consistent with criteria established by the department and specified in the Notice of Funding Availability.

(c) The grant amount that an eligible applicant may receive shall be based on the number of qualified housing units described in paragraph (2) in subdivision (b) that is approved by the jurisdiction and other criteria developed by the Department of Housing and Community Development.

(d) The department shall give priority to:

(1) Projects that will provide park and recreation access to a park underserved community, including neighborhoods where no parks currently exist.

(2) Projects that were selected, developed, and planned with the active involvement of community based groups and the neighborhoods to be serviced by the project and any applicable park district or regional park district.

(3) Applicants that have approved qualifying units affordable to very low and low-income households in infill projects.

(4) Applicants that have approved qualifying units affordable to extremely low-income households.

XXX.3 (a) To administer and develop the local assistance program under this chapter, the department shall:

(1) Develop a procedural guide for the administration of this chapter and the guidance of applicants. The procedural guide shall require applicants to illustrate how the proposed project is meeting the intent of the program and the funding source.

(2) Require applicants to illustrate how the project reflects the needs and demographics of the service area.

(b) The department may enter into an interagency agreement with the Department of Housing and Community Development to assist in the administration of the program.

XXX.4 (a) An applicant for a grant pursuant to this chapter shall agree to comply with all of the following requirements:

(1) To operate and maintain the property developed pursuant to this chapter so that it is usable by residents of the project's service area. With the approval of the department, the grant recipient, or its successor in interest in the property, may transfer its property interest and the responsibility to operate and maintain the property, in accordance with the terms of the grant and applicable law, to a public agency that is able to operate and maintain the property in perpetuity. An attempt to make a transfer in violation of this subdivision is void.

(2) To use the property only for the purposes consistent with this chapter and to make no other use or sale or other disposition of the property, except as authorized by a specific act of the Legislature. If the use of the property is changed to a use that is not permitted
by the terms of the grant, or if the property is sold or otherwise disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant, the fair market value of the land and any improvements constructed with the grant, or the proceeds from the sale or other disposition, whichever amount is greatest. If the
property that is sold or otherwise disposed of is less than the entire interest in the property funded with the grant, the grant recipient shall reimburse the state an amount equal to either the proceeds from the sale or other disposition of the interest or the fair market value of the interest sold or otherwise disposed of, whichever amount is greater.

(b) In lieu of seeking reimbursement pursuant to paragraph (2) of subdivision (a), the department may impose restrictions on the use of public park property identical to the requirements for the preservation of public parks set forth in the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400) of Division 5) with respect to any property used, sold, or otherwise disposed of in a manner not permitted by the terms of the grant.

Attachment 4

Housing-Related Parks Program (Prop 1C)
Comparison of Revised Trailer Bill Language, and Senate Alternative (Competitive Parks Program)

Trailer Bill Language – As Amended in May Revise	**Competitive Parks Program with Housing Eligibility Alternative**
Deletes previous provision requiring jurisdictions must be critically underserved by park and recreation facilities as established by DPR.	Priority given to projects that will provide park and recreation access for a parks underserved community.
Substantial compliance with Housing Element.	Same. Eligibility requirement.
Submitted to HCD the annual report.	Same. Eligibility requirement.
Provides that HCD shall issue a NOFA to apply to new housing starts during the designated time period. No provision related to affordable housing except for bonus points.	Jurisdiction is eligible to apply for competitive funds if they have issued a building permit for new units that are affordable to very low or low-income households. The amount that a jurisdiction may receive from the competitive program is dependent on the number of units approved.
Bonus funds awarded to the following: • Units affordable to very low and low-income households developed in infill projects. • Jurisdiction that have met or exceeded housing thresholds established by HCD, in consultation with DOF. • Housing starts for units that are affordable to lower income households.	Priority given to projects for the following: • Units affordable to very low and low-income households developed in infill projects. • Qualifying units affordable to extremely low-income households. • Jurisdictions that have projects that will develop park and recreation access to a parks underserved community • Park projects that were selected and developed with the cooperation of the community whom the project is meant to serve and any appropriate parks district.
Defines infill project with the same definition as provided in SB 86 the Infill Incentives Grant Program under Proposition 1C.	Same.
Provides that the amount of bonus grants to be awarded shall be established in the NOFA.	N/A
Provides that grants provided shall be used for the costs of park and recreation facility creation, development, or rehabilitation including the acquisition of land for the purposes of those activities.	Same intent, different wording.

Provides that HCD shall establish eligible types of park projects using definitions provided by and previously established by DPR.	N/A (competitive program)
Deletes eligibility requirement that the park or recreation facility for which grant funds will be used shall have a primary service area that is critically underserved by park and recreation facilities, based on criteria established by DPR.	Prioritizes funding parks or recreation facilities whose primary service area is critically underserved by park and recreation facilities, based on criteria established by DPR. (Not an eligibility requirement.)
Provides that HCD must adopt guidelines for the operation of the program.	HCD must develop eligibility guidelines pertaining to the number of affordable units permitted; DPR develops guidelines for the competitive program.
Deletes provision that HCD may enter into an interagency agreement with DPR to assist in the administration of the program.	Provides that DPR may enter into an interagency agreement with HCD to assist in the administration of the program.
Provides that a grantee may contract with another entity to complete the park or recreation facility project for which it has received funds.	No. But gives priority to projects that were selected and developed in conjunction with the appropriate park or regional park district.
Funds awarded shall supplement, not supplant, other available funding.	Not addressed.
Defines park and recreation facility, but does not include nonmotorized recreational trails, community gardens, enjoyment of scenic open space, nature appreciation and study and outdoor education, and regional recreational trails.	Not addressed. Can be added if deemed necessary, otherwise this would be specified in program guidelines.
Not addressed.	Provides that every applicant for a grant must comply with the following: • Operate and maintain property so that it is usable by residents of the targeted critically underserved community. Allow the applicant to transfer the property to another entity if approved by DPR. • Use the property only for the purposes for which the grant was made. If the property is sold or disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant.

	Instead of seeking reimbursement, DPR may impose restrictions on the use of public park property.
Deletes provision, that, to be eligible for funding, the park or recreation facility for which grant funds will be used shall have a primary service area that is critically underserved by park and recreation facilities, based on criteria established by DPR.	Gives priority to projects that serve a park underserved community. Not a eligibility requirement.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe

Monday, April 21, 2008
10:00 a.m.
Room 3191

"B" Agenda

Hearing Outcomes

Note: Senator Harman was absent from the room when the votes on this agenda were taken, so the 2 – 0 votes reflect "aye" votes from Senator Machado and Senator Kehoe.

Item Number and Title **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.

Items Proposed for Vote-only

2310	Office of Real Estate Appraisers
Control Section 1.00	Budget Act Citation
Control Section 1.50	Intent and Format
Control Section 4.30	Lease-Revenue Payment Adjustments
Control Section 4.80	State Public Works Board Interim Financing
Control Section 4.90	Architectural Revolving Fund Transfer
Control Section 4.95	Inmate Construction Revolving Account Transfer
Control Section 6.00	Project Alterations Limits
Control Section 8.00	Anti-Terrorism Federal Reimbursements
Control Section 9.20	Administrative Costs Associated With the Acquisition of Property
Control Section 9.50	Minor Capital Outlay Projects
Control Section 12.30	Special Fund for Economic Uncertainties
Control Section 25.50	SCO Apportionment Payment System Assessments
Control Section 28.00	Program Change Notification
Control Section 28.50	Agency Reimbursement Payments
Control Section 34.00	Constitutional Severability
Control Section 37.00	Urgency Clause

Action: All items on the Vote-Only calendar were approved on a 2–0 vote.

Items Proposed for Discussion

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing (DFEH) is to protect people from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence.

The Governor's Budget begins by funding 240.2 positions (including no new positions) and budget expenditures of $24.5 million (including $18.7 million General Fund) for the DFEH, but then includes a 10-percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $2.0 million (see the Discussion Item below).

VOTE-ONLY ITEM:

BCP-1: Increased Facility Rental Costs. The DFEH requests $376,000 GF to cover the increased rent for its Southern California district offices.

Staff Comment: The DFEH currently has four separate district offices located in one building in downtown Los Angeles; however, the lease on this space expired in April 2007. The Legislature approved one-time moving costs of $400,000 for FY 2007-08 to enable the DFEH to decentralize those offices in order to better meet the needs (including accessibility) of the citizenry throughout the current 24,000-square mile service area. Staff notes that the department will pay significantly less to locate two of the district offices outside of downtown Los Angeles (in South Bay and Pomona), although rental rates throughout the region have increased significantly since the current lease was executed in 1996.

STAFF RECOMMENDATION ON VOTE-ONLY ITEM: APPROVE AS BUDGETED.

Action: Approved as budgeted on a 2-0 vote.

DISCUSSION ITEM:

BBR: Administration of Civil Rights Law—Delay Processing of Employment and Housing Complaints. The Governor proposes a reduction of $2.0 million GF and 18.0 positions to this program, which is responsible for protecting the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

Staff Comment: The DFEH has one year from the date of filing to investigate cases, and if this timeline is not met the case "expires" and claimants lose their right to an administrative remedy and are forced into the court system. The department currently receives approximately 16,000 to 17,000 cases per year, and the elimination of 18.0

positions (8.0 investigative consultants out of a current total of 107.0, and 10.0 administrative and managerial staff) is expected to result in a backlog of discrimination cases and the inability to investigate over 740 cases within statutory timeframes. The DFEH indicates that the backlog would occur primarily as a result of the loss of 10.0 “frontline” positions directly related to casework (including the 8.0 investigate consultants and 2.0 administrative/managerial staff).

Under more extensive budget reductions in the early 2000's, the loss of DFEH investigative staff led to 94 expired cases in 2002-03 and 189 expired cases in 2003-04. More recently, the DFEH experienced 197 expired cases in FY 2006-07 and anticipates 194 expired cases in the current fiscal year despite the approval of 30.0 positions and $3.4 million GF over the past two years to improve enforcement. Staff notes that, on average, the cost of the entire DFEH administrative process for one case is roughly equivalent to one day in court. Thus, each case that the DFEH is able to effectively settle represents a potential GF savings (cost avoidance) because that case might otherwise have gone to court.

In addition to the GF reduction, the DFEH indicates this proposal would result in the loss of between $100,000 and $500,000 in federal funds. This estimate is based on existing workshare agreements with the federal Housing and Urban Development (HUD), and U.S. Equal Employment Opportunity Commission (EEOC). Cases are often dual filed with DFEH and HUD or EEOC. For those cases, the DFEH is reimbursed $540 for each employment case and $2,400 for each housing case that is investigated within the federal timeframe.

According to the DFEH, the above estimates of expired cases and reduced federal funds do not assume any increase in claims that might result from the current turmoil in the housing and job markets. Staff notes that even without assuming any increase in claims, the subcommittee will need to consider: (1) whether the adverse affect on the protection of civil rights is worth the proposed savings, particularly in tough economic times; and (2) whether the state would actually realize any GF savings in the long-run since the reduction could result in higher costs to the GF-supported courts system. The subcommittee may wish to consider an intermediate approach that would include eliminating 8.0 of the “non-frontline” positions contained in the Governor’s proposal, while restoring the staff directly related to case processing.

Staff Recommendation: APPROVE the reduction of 8.0 positions and $1.0 million GF, and RESTORE 10.0 positions and $944,000 GF.

Action: Approved the staff recommendation on a 2-0 vote.

1705 Fair Employment and Housing Commission

The Fair Employment and Housing Commission (FEHC) 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. The seven members of the Commission are appointed by the Governor and confirmed by the Senate.

The Governor's Budget begins by funding 7.0 positions (including no new positions) and budget expenditures of $1.3 million (including $1.2 million GF) for the FEHC, but then includes a 10-percent, across-the-board GF reduction (BBR) of $117,000 (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Case Adjudication—Eliminate Hearing Officer. The Governor proposes a reduction of $117,000 GF to this program, which adjudicates cases brought before it by the DFEH, promulgates regulations that interpret the Fair Employment and Housing Act, sponsors and analyzes legislation on civil rights issues, provides technical assistance to the Governor and the Legislature, and provides education and outreach to encourage compliance with fair employment and housing laws.

Staff Comment: Of the roughly 16,000 to 17,000 cases received by the DFEH annually, approximately 100 "accusations" are referred to the FEHC. According to the FEHC, the proposed elimination of 1.0 Hearing Officer (out of a current total of 3.0) would compromise its administrative hearing program, which includes mediation and settlement conferences that frequently provide a less costly alternative to an adversarial hearing. Staff notes that when these alternative methods are not successful, the Hearing Officer cannot preside over the actual hearing because they have been privy to information that may or may not be accepted into the hearing. This means that with only 2.0 full-time Hearing Officers, the FEHC would have no flexibility as to who can hear the cases.

The FEHC indicates that there is currently no case backlog.

Staff Recommendation: APPROVE the reduction.

Action: Approved the reduction on a 2-0 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.

The Governor's Budget begins by funding 659.2 positions (including 54.0 new positions) and budget expenditures of $1.1 billion (including $16.0 million GF) for the department, but then includes a 10-percent, across-the-board GF reductions (BBRs) totaling approximately $1.3 million. The individual BBRs are as follows:

Program	**General Fund***	**Personnel Years (PYs)**
State Housing Law	-$64	-0.3
Employee Housing	-$85	-0.6
Community Development Block Grant	-$52	-0.8
Emergency Housing Assistance Program	-$401	--
Office of Migrant Services (Local Assistance)	-$343	--
Enterprise Zones	-$59	-0.5
Housing Element, Issues, and Reporting	-$163	-0.9
Administration and Program Support	-$85	--
TOTALS	-$1,252	-3.1

(*dollars in thousands)

As illustrated in the table below, the net effect of the Governor's proposals would be a 19.0 percent decrease in total funds from adjusted Fiscal Year 2007-08 totals, primarily as a result of reduced bond award amounts, but including approximately $1.3 million less in GF.

	Total Funds*	**General Fund***
Adjusted 2007-08 Budget	$1,303,515	($15,654)
2008-09 Base Budget	$1,057,032	($15,951)
Proposed Budget-Balancing Reductions	-$1,252	(-$1,252)
GOVERNOR'S REVISED 2008-09 TOTALS	$1,055,780	($14,699)
Change—Year Over Year	-19.0%	-7.9%

(*dollars in thousands)

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $37.0 million in funding from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) – down by approximately $49.0 million from 2006-07 due to the exhaustion of the bond funds. The budget also includes approximately $771.0 million (excluding administrative costs) from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Portions of Prop 1C funds are continuously appropriated, and the HCD is using this existing authority to expend $973.0 million in Prop 1C funds in FY 2007-08.

The second largest revenue source is federal funds, estimated at $174.5 million in 2008-09, which is about the same as 2007-08. Remaining expenditures of about $77 million are covered by the GF ($14.7 million), fees, and other miscellaneous revenues.

VOTE-ONLY ITEMS:

1. BBR: Employee Housing. The Governor proposes a reduction of $85,000 GF and 0.6 positions to this program, which is responsible for adoption and enforcement of statewide regulations for construction, maintenance, use, and occupancy of privately owned and operated employee housing facilities that provide housing for five or more employees.

Staff Comment: According to the HCD, this reduction would result in less frequent inspections, but would not significantly threaten life or health.

2. BBR: Community Development Block Grant (CDBG). The Governor proposes a reduction of $52,000 GF and 0.8 positions to this program, which provides CDBG program benefits to non-entitlement cities and counties (counties with fewer than 200,000 residents in unincorporated areas and cities with fewer than 50,000 residents that are not participants in the United States Department of Housing and Urban Development CDBG entitlement program).

Staff Comment: The CDBG Program is designed to create or retain jobs for low-income workers in rural areas by providing grants of up to $2.5 million for eligible cities and counties to lend to identified businesses, or use for infrastructure improvements necessary to accommodate the creation, expansion, or retention of identified businesses. According to the HCD, this reduction would result in a loss of $52,000 in matching federal funds (for a total program reduction of $104,000), and would reduce the department's ability to meet compliance workload demands.

3. BBR: Enterprise Zone Program. The Governor proposes a reduction of $59,000 GF and 0.5 positions to this program, which offers benefits (including tax credits) to employers that locate or expand within economic development areas.

Staff Comment: According to the HCD, this proposal would result in a reduction to marketing and outreach efforts to inform employers about the program. Staff notes that the Legislature approved a one-time reduction of $50,000 GF to this program in the special session.

4. BBR: Administration and Program Support. The Governor proposes a reduction of $85,000 GF to this program, which provides fiscal, human resources, and other support services for each of the other HCD programs.

Staff Comment: According to the HCD this reduction would be spread across the various administrative functions and would diminish the quality of the support to the department's core programs, thus, indirectly reducing the level of services the HCD provides to its stakeholders.

5. BCP-7: HOME Investment Partnerships Program (HOME) Workload. The HCD requests 4.0 positions and $448,000 (federal funds) for the long-term monitoring of projects and the servicing of loans due to the increase in the HOME housing portfolio.

Staff Comment: The HCD indicates that the HOME Program is currently noncompliant with federal regulations that require long-term monitoring of HOME projects through the full 15-year period of affordability for first-time homebuyers. According to the HCD, by enabling proper monitoring of projects and servicing of loans, the requested positions would not only allow the state to comply with federal requirements, but would ensure that rents are kept as low as possible; apartments are maintained in decent, safe, and sanitary conditions; and that tenant incomes are verified for eligibility purposes.

6. BCP-9: Occupational Licensing Services—Position Conversion. The HCD proposes to convert a temporary help position to a permanent, full-time budgeted position in the Occupational Licensing (OL) Program's Field Investigations Unit to aid in the timely investigations of consumer complaints and help reduce the current two-year backlog. The HCD requests no additional funding authority and will pay for the position out of existing resources ($104,000 special fund).

Staff Comments: The OL Program licenses and regulates manufacturers, dealers, distributors, and salespersons of manufactured homes, multi-unit manufactured homes and commercial modular units, and is authorized to investigate and prosecute unfair competition and statutory violations in the manufactured home industry. Thus, the OL Program protects consumers against unlicensed sales, fraud, misrepresentation, illegal, unfair, or fraudulent sales practices, and noncompliance with statutory warranty requirements.

Due to the high priority of the workload identified, the HCD has already administratively established the requested position in the current fiscal year using funds that would otherwise have been expended on equipment, training, travel, or other program costs deemed to be lower priorities. Staff notes that the OL Program is supported by fees for various OL Program services. Additionally, staff notes that the HCD workload analysis presents a justification for staff beyond the 1.0 position requested, but funding is currently insufficient to support all of these positions.

7. BCP-10: Extension of Liquidation Period for the Building Equity and Growth in Neighborhoods Program (BEGIN—Proposition 46). The HCD requests authority to extend the term of contract liquidation for Proposition 46 BEGIN Program prior awards.

This would allow project sponsors time, as provided for in the executed contract, to submit invoices for payment/reimbursement.

Staff Comments: Current budget language permits only two years for liquidation, while the HCD has found that many projects require approximately four years. According to the HCD, approximately $7.3 million in BEGIN funds (awarded to 17 projects in support of 434 units) appropriated in the Budget Act of 2005 are expected to be unspent at the end of the current fiscal year. In the absence of the requested change, these projects (and projects like them in the future) would lose these funds after June 30, 2008. Staff notes that this request is consistent with actions taken by the Legislature last year (to extend the liquidation period) with regard to certain Local Assistance items.

8. BCP-17: Multifamily Housing Program (MHP) Senior Set Aside—AB 927 Implementation. The HCD requests 1.0 two-year limited-term position and $111,000 (special fund) to implement a new senior-restricted housing component of the MHP, as authorized by Chapter 618, Statutes of 2007 (AB 927).

Staff Comments: AB 927 required that the percentage of MHP funding that goes to senior citizens must be equal to the senior citizen population in the target income group for the MHP program (lower income households) as reported by the federal Department of Housing and Urban Development. Thus, this request would help ensure that low income senior citizens are able to obtain affordable housing.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

Action: Approved as budgeted on a 2-0 vote.

DISCUSSION ITEMS:

1. BBR: State Housing Law. The Governor proposes a reduction of $64,000 GF and 0.3 positions to this program, which is responsible for promulgation of revisions to the state's building codes for residential housing and currently has 3.5 positions.

Staff Comment: The purpose of the State Housing Law Program is to develop and implement new and existing residential building and housing codes in California. The California Building Code is updated every three years and requires the HCD to review national "model" building codes, determine necessary amendments for California, and propose them to the California Building Standards Commission (BSC).

The HCD indicates this proposal would reduce the department’s ability to monitor and then amend national building codes into California building codes, which could result in California builders being required to follow codes that are inconsistent with national standards. This could result in more costly housing construction. Staff notes that the Legislature approved a one-time reduction of $50,000 GF to this program in the special session.

Staff additionally notes that Item 2 (below) would add positions to this division for the purpose of developing building standards regarding water conservation and reuse as directed by recently adopted legislation.

Staff Recommendation: APPROVE the reduction.

Action: Approved the reduction on a 2-0 vote.

2. BCP-15: State Housing Law—AB 1406 & AB 1560 Implementation (Water Efficiency and Conservation). The HCD requests 1.0 two-year limited-term position and $117,000 GF to develop codes and standards for use of recycled water in condominiums for toilet and urinal flushing (Chapter 537, Statutes of 2007—AB 1406) and water efficiency and conservation in new residential and non-residential buildings (Chapter 532, Statutes of 2007—AB 1560).

Staff Comment: Staff notes that the legislative analyses for AB 1405 and AB 1560 noted zero or negligible costs for the HCD. Additionally, the subcommittee is generally denying any augmentation to implement new or recent legislation unless the funding would protect life and safety or produce offsetting revenues or savings. While AB 1406 and AB 1560 clearly reflect the priorities of the Legislature and the Governor to move toward more sustainable/"green" building practices, and while they may result in long-term benefits or savings to the state, staff notes that this request does not appear to meet the subcommittee's criteria and, therefore, this proposal would be a candidate for denial without prejudice. However, should the subcommittee wish to give fuller consideration to this proposal, it may wish to consider the information below.

The HCD states that the existing 3.5 positions in the State Housing Law Program are not capable of meeting the existing demand to update the California Building Code, implement the two pieces of legislation cited, as well as work on current Green Building efforts of the Building Standards Commission (BSC).

The Legislature has made its desire to make "green building" the standard practice in California clear. Along with the two pieces of legislation mentioned here, the legislature also passed three green building bills in 2007 (relative to residential, commercial, and state buildings) that were vetoed by the Governor. Part of that veto message cited the existing efforts underway by the BSC, on which the HCD is collaborating.

As such, the subcommittee may wish to request further information from the department to ensure that the HCD, the BSC, and the other partners are moving in a direction consistent with the desires of the Legislature. The current efforts at the BSC are largely resulting in voluntary measures, and the Committee may wish to review the appropriateness of funding efforts to develop voluntary building codes that already exist in the private market.

Staff Recommendation: DENY the request without prejudice.

Action: Denied the request on a 2-0 vote.

3. BBR: Emergency Housing Assistance Program. The Governor proposes a reduction of $401,000 GF to this program, which helps to fund local homeless shelters, providing a portion of the funding for approximately 19,000 shelter spaces annually.

Staff Comment: According to the HCD, the state currently provides about 10 percent of the overall funding for local homeless shelters. Although the amounts awarded to shelters vary, on average this proposal would result in a 1-percent reduction in total funding for each of 19,000 shelter spaces.

Staff Recommendation: APPROVE the reduction.

Action: Held open. The Chair expressed the desire to try and bridge the gap in order to maintain current funding levels.

4. BBR: Office of Migrant Services (OMS). The Governor proposes an annualized reduction of $687,000 to the OMS program, which provides safe, decent, and affordable seasonal rental housing and support services for migrant farmworker families during the peak harvest season. The 2008-09 Governor's Budget assumes only $343,000 in savings in the Budget Year due to the lag time required to implement the reduction.

Staff Comment: The HCD originally estimated the state would need to shut down four to six of the 25 OMS Centers to achieve the budgeted savings; however, during the special session the HCD was able to eliminate state funding from one center (Firebaugh) while the locals kept the facility open utilizing reserve funds. This arrangement saved approximately $202,000 GF, but still requires the department to find an additional $141,000 in savings in the budget year. While the HCD hopes to find other centers with sufficient reserves to fund operations for the next year using less GF as was accomplished at Firebaugh, the additional reduction may require a 2-percent, across-the-board GF cut to all centers. The HCD does not currently anticipate the need to close any OMS centers over the next two growing seasons (through the end of FY 2008-09); however, the department cannot make an ironclad commitment on this account. Staff notes that the HCD is also working to get federal dollars to ease the demand on the state budget (see Item 5, below).

Staff Recommendation: HOLD OPEN.

Action: Held open to allow more time for the HCD to determine whether the targeted savings can be achieved without closing any OMS centers.

5. FL-3: OMS Federal Funding for Rehabilitation Projects. The HCD requests $1.8 million in federal fund authority in recognition of its intent to seek federal funding for projects at the various OMS centers.

Staff Comments: As discussed in Item 4 (above), the HCD operates 25 OMS centers (with approximately 1,800 units of housing) across the state and is responsible for their regular upkeep and maintenance as well as major repairs and rehabilitation. For going on 25 years, the HCD has regularly inspected the centers and carried out required repairs, rehabilitation, and reconstruction on a priority basis subject to fund availability.

While the HCD is nearing completion of a multi-year plan to reconstruct the oldest centers, the HCD indicates that OMS staff have identified rehabilitation projects and Americans with Disabilities Act (ADA) work, totaling $2.7 million, that is currently needed. The United States Department of Agriculture's Rural Development Agency has made available rehabilitation and repair funds for the OMS centers through a competitive Notice of Funding Availability, and the HCD plans to submit an application by mid-May for the aforementioned $2.7 million. The HCD anticipates the awards would be made in late-July or early-August and is requesting $1.8 million in additional federal fund authority based on the assumption that it will successfully compete for two-thirds of the requested dollars.

Due to the contingent nature of the requested funding, the subcommittee may wish to direct staff, the LAO, and the Administration to develop provisional language that makes the requested authority contingent upon approval of the federal funding.

Staff Recommendation: APPROVE the request with provisional language to be developed by staff, LAO, and the Administration.

Action: Approved the staff recommendation on a 2-0 vote.

6. BBR: Housing Element. The Governor proposes a reduction of $163,000 GF and 0.9 positions to this program, which provides for review and approval of local housing plans that are required as part of local general plans. In addition, some state housing bond programs require housing element compliance, or provide preference for compliance.

Staff Comment: For several decades, state law has required local governments to adopt a general plan that contains at least seven elements, including a housing element. By requiring local governments to adopt land-use plans and regulatory schemes that take into account the local housing need, the housing element is the state's primary market-based strategy to increase housing supply and choice. Although the HCD is required to review housing elements (which must be updated every five years) for compliance, the department does not possess a regulatory "hammer" to force compliance or punish non-compliance. As a result, the statewide compliance rate was well below 50 percent as recently as the early 1990s. However, compliance rates have improved due to increased technical assistance and resources provided by the HCD; a growing recognition by local governments of the importance of housing and an increased commitment to addressing the need; litigation against local governments by advocates for low-income families and individuals to compel compliance; and the use of state housing and bond funds to reward compliance (e.g., the BEGIN program; the Jobs and Housing Improvement Program and the Workforce Housing Program which provided local governments with discretionary grant funds for adopting a compliant housing element and approving housing). Currently, approximately 19 percent (or 102) of the 535 jurisdictions required to adopt a housing element are out of compliance.

As noted above, certain Prop 1C programs provide a monetary incentive for local governments to comply with housing element law, thereby increasing the demand for the HCD's services. However, in addition to this, a large number of jurisdictions have received extensions for updating their housing elements over the last few years and the

HCD anticipates those delayed submissions will be received soon. As result of this spike in workload, the proposed reduction could result in the department missing statutory review deadlines.

Staff notes that the State Housing Element Law BCP below (Item 7) would add 2.0 Prop 1C-funded limited-term positions, to this program. Should the subcommittee choose to approve both of these proposals, the HCD would net 1.0 new position for the State Housing Element Law Program, and would effectively shift the cost of 1.0 position from the General Fund to Prop 1C funds. While this option would provide GF relief in the short-term, the Legislature would still need to address the ongoing resource needs of the program in the future.

Staff additionally notes that the Legislature approved a one-time, current-year reduction of $100,000 GF to this program in the special session.

Staff Recommendation: APPROVE the reduction (in anticipation of accepting the staff recommendation to approve the State Housing Element Law BCP—Item 7).

Action: Approved the reduction on a 2-0 vote.

7. BCP-1: State Housing Element Law—Prop 1C Workload. The HCD requests 2.0 two-year limited-term positions and $222,000 (bond funds) to address increased workload in the Housing Element Law program resulting from the passage of Prop 1C.

Staff Comment: As mentioned above, some Prop 1C programs/grants, most notably the Infill Incentive Program (with $850 million in available funds), either require or prioritize projects that have an approved housing element. The HCD believes that, with the large amount of funds to be disbursed under Prop 1C, and based on the department's experience with the previous housing bond (Prop 46), it is reasonable to expect that many entities currently not in compliance with housing element law will be submitting housing elements for review. Based on an analysis of the Prop 46 historical workload, the HCD conservatively estimates that the Prop 1C housing element workload will require 2.0 additional positions.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

8. BCP-16: Updating of Housing Elements for Flood Hazards—AB 162 Implementation. The HCD requests 2.0 two-year limited-term positions and $226,000 (GF) to address the increased number and complexities of housing element reviews resulting from Chapter 369, Statutes of 2007 (AB 162).

Staff Comment: AB 162 requires the HCD, when acting as a Council of Governments, to consider flood hazards when evaluating available land suitable for urban development, and changes requirements in relation to housing elements and safety elements. This legislation also requires more updates to existing safety and housing elements, which, according to the HCD will create more review work for the department. Staff notes that the bill analysis for AB 162 identified no fiscal effect on the HCD.

As discussed in the corresponding BBR and BCP above (Items 6 & 7), the Governor proposes to reduce 1.0 position in the State Housing Element Program, but add 2.0 positions for Proposition 1C purposes. Together with this BCP, if all three requests are approved, the HCD would gain a net of 3.0 positions in the Housing Element Program.

As noted above in Item 2, the subcommittee is generally denying any augmentation to implement new or recent legislation unless the funding would protect life and safety or produce offsetting revenues or savings. Although the benefits of AB 162 may not be felt immediately, the subcommittee may wish to consider whether AB 162 would provide sufficient protection to life and property (in the case of a flood), to justify the requested GF resources. Staff notes that if housing is not sited in inappropriate locations, such as areas with flood hazards, the costs to address various health and safety problems are avoided. This could result in lower costs to the occupants/owners of housing since they would not be burdened with additional flood insurance costs. Should the subcommittee decide that these benefits are not sufficiently immediate to warrant the expenditure of scarce GF in the budget year, it should deny this request without prejudice.

Staff Recommendation: DENY the request without prejudice.

Action: Denied the request on a 2-0 vote.

9. Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Prop 1C provided for a general obligation bond issuance not to exceed $2.85 billion. The Governor proposes to award $771.0 million in Prop 1C revenues in 2008-09, on top of the $973.0 million estimated to be expended in the current fiscal year and $162.0 million awarded in FY 2006-07. Some Prop 1C programs are already continuously appropriated and other programs require a Budget Act appropriation to authorize expenditure. The Administration has submitted statutory language to implement one remaining Prop 1C program that was not activated in the current fiscal year (see Item 10, below). The chart below outlines proposed Prop 1C expenditures by category and indicates whether each program is administered by the HCD, or by the California Housing Finance Authority (CalHFA). Dollars are in thousands and 2007-08 and 2008-09 allocations exclude administrative costs.

Proposition 1C Category	2007-08 Allocations	2008-09 Allocations	Total Prop 1C	Approp Type	Budget
Homeownership Programs					
CalHome	$50,000	$50,000	$290,000	Continuous	HCD
CA Homeownership Program (BEGIN)	40,000	40,000	125,000	Budget Act	HCD
Self-Help Housing Program	3,000	3,000	10,000	Continuous	HCD
CA Homebuyers Down-payment Assistance Program	100,000	[30,000]	100,000	Continuous	CalHFA
Residential Development Loan Program	100,000	[30,000]	100,000	Continuous	CalHFA
Affordable Housing Innovation Fund	0	95,000	100,000	Budget Act	HCD
Multifamily Rental Housing Program					
General	140,000	101,000	345,000	Continuous	HCD
Supportive Housing	80,000	78,000	195,000	Continuous	HCD
Homeless Youths	15,000	15,000	50,000	Continuous	HCD
Other Programs					
Serna Farmworker Loans/Grants	40,000	40,000	135,000	Continuous	HCD
Emergency Housing Assistance	10,000	24,000	50,000	Continuous	HCD
Infill Incentive Grants	300,000	200,000	850,000	Budget Act	HCD
Transit Oriented Development	95,000	95,000	300,000	Budget Act	HCD
Housing Urban-Suburban and Rural Parks	0	30,000	200,000	Budget Act	HCD
TOTAL	**$973,000**	**$771,000**	**$2,850,000**		

Staff Comment: Consistent with last year's Prop 1C discussion, the subcommittee may wish the Administration and the LAO to comment on the following in light of the experiences of the intervening year:

- What is the appropriate level of funding for support costs – a level that minimizes administrative costs but allows for appropriate oversight? The HCD has previously suggested that total program overhead can be kept below 5 percent, which is similar to the level used for the Proposition 46 programs. Has the HCD been able to keep administrative costs below this threshold?

- For each bond program, what is the appropriate number of cycles, the schedule for the cycles, and the approximate amount of funding for each cycle? The amount of funding eventually provided for FY 2007-08 was different in several instances than was originally proposed in the Governor's Budget and the dollar totals for applications recently received has far exceeded the funds allocated in several instances. For example, the Infill Incentive Program (Infill) was budgeted at $300 million, released a Notice of Fund Availability (NOFA) for $240 million, and received approximately $1 billion in applications. Similarly, the Transit-Oriented Development Program was budgeted at and released a NOFA for $95 million and received $544 in applications. This suggests that there may be sufficient demand to release more of the bond funds earlier. Has the Department made any changes to its Prop 1C proposals relative to what is included in the Governor's Budget? What are the pros and cons associated with speeding up the delivery of the Infill funds, for example?

Staff Recommendation: Keep this issue open and direct staff to continue discussions with the department on the possibility of accelerating certain bond award schedules.

Action: Held open. The Chair directed staff to work with the HCD to determine how much various bond program awards may be accelerated to address high demand.

10. BCP-11: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes: (1) trailer bill language (TBL) to implement the Housing Urban-Suburban-and-Rural Parks (Housing-Related Parks) Program created under Prop 1C; (2) 2.0 positions and $583,000 (bond funds), including $350,000 for an interagency agreement with the Department of Parks and Recreation (DPR) to fund state operations of the Housing-Related Parks Program; and (3) Budget Act authority to award $30 million in bond funds to qualifying projects for housing-related parks.

Staff Comments: Prop 1C provided $200 million, available upon appropriation, for "housing-related parks grants in urban, suburban, and rural areas, subject to the conditions and criteria that the Legislature may provide in statute." The Governor proposed TBL to implement the Housing-Related Parks Program in FY 2007-08, but the Legislature opted to defer a final decision on the shape and form of the program until FY 2008-09. As a result the Administration has again proposed TBL to implement the program. The Administration TBL would require the HCD, "in conjunction" with the DPR, to provide grants to local governments based on the following criteria:

1. The jurisdiction has adopted a compliant housing element.
2. The jurisdiction is "critically underserved by park and recreation facilities" and the park or recreation facility for which the funds are to be used meet minimum park standards as determined by the DPR (in both instances).
3. Grant amounts would be determined based on new housing starts as a per-bedroom incentive. (Staff notes that the Administration proposal assumes $500 in grant funding per unit.)
4. Additional bonus funds could be awarded for (1) high park need as determined by the DPR; (2) meeting or exceeding housing production thresholds as determined by the HCD and the Department of Finance; and/or (3) housing starts that are affordable to lower income households.

The subcommittee may wish the HCD to discuss in greater detail the way in which this program would work.

Staff Recommendation: HOLD OPEN.

Action: Held open.

11. BCP-18: Prop 1C Affordable Housing Innovation Programs—SB 586 Implementation. The HCD requests 5.0 two-year limited-term positions and $559,000 (special funds) to implement new Prop 1C Affordable Housing Innovation Fund Programs, as authorized by Chapter 652, Statutes of 2007 (SB 586).

Staff Comments: Prop 1C provided $100 million to the Affordable Housing Innovation Fund for a variety of purposes. Subsequent legislation, SB 586, specified the funds to be used in the following manner:

- Affordable Housing Revolving Development and Acquisition Program – Loan Fund ($25 million)
  - ➢ Provide loans for the purchase of real property for the development or preservation of affordable housing.

- Affordable Housing Revolving Development and Acquisition Program – Practitioner Fund ($25 million)
  - ➢ Primarily to provide funds to nonprofit entities for projects developing or preserving housing affordable to low and moderate-income households.

- Local Housing Trust Fund Matching Grant Program ($35 million)
  - ➢ Continues the program created under Prop 46 to provide matching grants for local programs. Fifty percent of the funds must be used for newly established trusts, and some funds must go towards rural trusts.

- Innovative Homeownership Program ($10 million)
  - ➢ This program allows HCD to draft guidelines for innovative projects that would reduce the cost of affordable housing.

- Construction Liability Insurance Reform Pilot Program ($5 million)
  - ➢ Funds a predevelopment program for best practices for state-sponsored housing programs.

SB 586 additionally requires the HCD to develop regulations regarding priorities and funding structure for the programs created under the Affordable Housing Innovation Fund Program.

Staff notes that the requested resources are consistent with the Senate floor analysis of SB 586.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

12. BCP-4: Budget Office Workload. The HCD requests 1.0 position and $106,000 (various funds) to properly administer and manage the department's expenditure authority, fund availability, and bond accountability requirements.

Staff Comment: The HCD currently has 3.0 "budget" staff to manage a budget in excess $500 million that spans 34 funding sources. The passage of Proposition 46 in 2002 and Proposition 1C in 2006 significantly diversified the housing portfolio, which correspondingly increased the volume and complexity of overseeing the HCD budget. The table below provides a comparison of the HCD (pre-Prop 1C, which added nine additional fund sources) to several other departments based on some of the characteristics that drive the need for budget staff:

Department	PYs	Total Funds ($s approximate and rounded in 000s)	# of Funds	# of Programs	"Budget" Staff
HCD	526.9	$664	25	5	3
Energy Comm	500.3	$510	14	5	3
Toxics	1,003.7	$181	7	5	4
Alcohol & Drug	323.2	$663	12	2	5
Conservation	628.6	$1,049	22	6	5
OES	520.6	$1,295	12	9	18

(All data based on the 2007-08 Governor's Budget)

As the table depicts, the number of budget staff allocated to departments does not follow a strict formula; however, among the sample presented, the HCD ranks mid-to-high across each of the categories that primarily influence the number of budget staff required while ranking at the bottom in terms of budget positions authorized. Staff notes that, particularly with regard to the number of funds managed, the HCD budget generates significant challenges because 17 of the funds have both state operations and local assistance appropriations (contributing to HCD's 95 total and 28 Budget Act appropriations). Additionally, some HCD programs have long-term requirements, like loan monitoring of up to 55 years.

According to the HCD, the unique and growing challenges of its budget combined with a current statewide trend that finds many experienced staff leaving the workforce has substantially hampered the ability of the Budget Office to serve its internal and external customers quickly and efficiently. The department indicates the Budget Office has lost approximately half of its budget experience over the past several years and indicates that the complexity of the HCD budget and the long hours demanded by a small budget office have created recruitment and retention problems.

Based on the workload analysis provided, the HCD justifies at least 2.0 additional budget positions, but, given the current fiscal crisis, respectfully requests only 1.0 position with the intention, if the request is approved, of returning in the future if the need warrants. Staff notes that the requested position appears well justified on a workload basis, but may not meet the subcommittee's fiscal-crisis criteria for budget augmentations—that the request addresses life and safety or generates off-setting revenues or savings.

Unless the HCD can make a business case for the requested positions, the subcommittee may wish to deny the proposal.

Staff Recommendation: DENY the request without prejudice toward the need, and offer reconsideration under improved fiscal conditions in a future budget year.

Action: Approved the request on a 2-0 vote.

13. BCP-6: Preservation of the HCD's Older Affordable Housing Portfolio—SB 707 Workload. The HCD requests 3.0 two-year limited-term positions and $351,000 (various special funds) to perform work authorized by Chapter 658, Statutes of 2007 (SB 707) and certain changes in regulation, associated with extension of loan terms for affordable housing loans.

Staff Comment: SB 707 provided statutory authority for the HCD to extend and modernize the loans in its oldest portfolio through conversion to the department's omnibus Multifamily Housing Program (MHP) structure. The old loans on 140 projects, representing 4,000 units of affordable housing, are coming to the end of their terms and repayment of the loans would, in a majority of cases, require the sale of the property. According to the HCD, this would likely result in a net loss of affordable rental housing to the state because the loan repayment dollars would be insufficient to purchase/build an equivalent number of affordable units at today's prices. Therefore, assuming the Legislature's policy goal is to maintain current levels of affordable housing, the conversion and preservation of affordable housing under SB 707 and pursuant to various regulatory changes, the 3.0 limited-term positions requested by the HCD appears to provide the least-cost method for achieving this goal and likely avoids other costs to the state that would be incurred if current residents lost their affordable housing.

Staff notes that the conversion/extension process created under SB 707 is entirely voluntary to the project owner and extends the period of affordability by 55 years (from the date of the conversion under a new loan term). The HCD indicates that the initial costs of this proposal would be funded from existing special fund balances until new interest revenues (on the converted loans) begin to flow.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

14. FL-1: Local Agency Code Enforcement—Transfer of Local Agency Responsibility to the HCD. The HCD requests 5.0 positions and $521,000 (special fund) to address the transfer from local agencies of code enforcement responsibilities for mobilehomes and special occupancy parks back to the state.

Staff Comments: Under existing law, the HCD is required to enforce the Mobilehome Park and Special Park and Special Occupancy Park Acts if a local government opts to cancel its assumption of these responsibilities. According to the HCD, this request is necessary because San Bernardino County may return enforcement responsibility of

223 mobilehome and special occupancy parks (including 20,500 spaces) to the state on or before July 1, 2008.

The HCD currently provides enforcement for 149,004 spaces with 40.0 District Representative Is (DRIs) and 8.0 District Representative IIs (DRIIs) (a 5:1 ratio of DRIs to DRIIs, and a DRI to park space ratio of 1:3,725). The HCD indicates that this request includes 3.0 DRIs and 1.0 DRII (rather than the 5.0 DRIs that the current ratio would indicate) because the current permit-to-operate fee structure will not support two additional DRIs, and fee-for-service fees are based on 2001-02 salaries. Additionally, the HCD is hopeful that the park jurisdiction will be returned to the state in good condition, with proper recent monitoring and inspections completed and up-to-date.

Staff notes that the Administration has proposed provisional language to make the requested funding contingent upon the HCD's assumption of the enforcement responsibilities should San Bernardino County opt to cancel its assumption. However, the subcommittee may wish to simply hold the item open to wait and see whether a decision is made in the next month given that this request may be unnecessary.

Staff Recommendation: HOLD OPEN to allow the maximum time for the Legislature to learn whether San Bernardino County will indeed return its enforcement responsibilities to the state.

Action: Held open.

2320 Department of Real Estate

A primary objective of the Department of Real Estate (DRE) 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.

DISCUSSION ITEMS:

1. Informational Item: Workload Analysis Report and Future Trends in DRE Workload. Provisional language included in the Budget Act of 2006 required the DRE to provide the Legislature, by January 10, 2008, with a report containing actual workload data from the 2005-06 and 2006-07 fiscal years, including the total number of licensees; the number of 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.

Staff Comment: The provisional language was introduced to the Budget Bill in order to track and validate augmentations approved in FY 2006-07 in the Enforcement and Subdivisions Programs (totaling 37.0 positions and approximately $3.0 million). Due to late receipt of the report (staff received an unofficial release on April 7, 2008) staff has had insufficient time to review the report in detail; however, the subcommittee may wish the department to summarize the key points of the report and address the following questions:

- The licensee population and salesperson examination projections the DRE made during the FY 2006-07 budget process for FY 2007-08 have proven to be high—by about 10 percent and 20 percent, respectively—relative to updated estimates for the current fiscal year. In hindsight, what played out differently than the DRE expected in the real estate market over the last couple of years? How does the department expect these trends to track over the next couple of years?
- Although not included in the reporting requirement, the positions approved in the 2006-07 budget process were intended, among other things, to help expedite investigations and audits. To what extent has this occurred? Would the department object to providing enforcement data in future reports?

Staff Recommendation: Direct staff, LAO, and the Administration to AMEND Provision 2 of Item 2310-001-0317 to include reporting on various DRE enforcement metrics.

Action: Approved the staff recommendation on a 2-0 vote. Staff will work with the LAO and Administration to develop provisional language that includes relevant enforcement metrics.

2. BCP-1: Fiscal & Business Services Workload. The DRE requests 3.0 positions and $139,000 (special fund) to process incoming and outgoing mail and provide support services to the Sacramento Office. This augmentation is being sought to offset the workload support demands of a high licensee population.

Staff Comment: As with many state agencies, the DRE has moved toward greater reliance on electronic processes over the last several years to generate efficiencies and improve service to the public. In FY 2006-07 alone, the Legislature approved the DRE for an Information Technology (IT) Replacement Project, an Interactive Voice Response IT Project, and an Electronic Examinations IT Project. However, even while the DRE has moved increasingly toward the "e-licensing" of its brokers and real estate agents, and in so doing reduced incoming mail from approximately 351,000 pieces in FY 2004-05 to a projected 252,000 in FY 2007-08, the department's duties continue to require substantial physical handling of mail. According to the department, while the licensee population has increased dramatically in recent years, no additional staff has been provided for mail processing in over a decade. As a result, temporary help, overtime, and redirections have been used to meet the need.

Staff notes that, in reviewing this proposal, the Legislative Analyst's Office (LAO) concluded that the department has provided sufficient workload justification for only 2.0 of the 3.0 requested positions. Additionally, the LAO concluded that one of those positions can and should be funded from the DRE's temporary help blanket, since the department has been using temporary help to partially address the subject workload. As such, the LAO recommends that the Legislature (1) reduce the request by $92,000 and 1.0 position (Office Assistant); thereby, leaving the DRE with about $47,000 and 2.0 new positions (Program Technicians), and (2) redirect approximately $47,000 from DRE's temporary help blanket to cover the balance of funds needed to support the positions. The DRE concurs with the LAO position, and is in support of using temporary help funds to support 1.0 of the 2.0 positions recommended for approval.

Staff Recommendation: APPROVE the LAO recommendation.

Action: Approved the LAO recommendation on a 2-0 vote.

3. Informational Item: Real Estate Fraud Prosecution Trust Fund Program—Inadequate Reporting by Counties. According to the LAO's *Analysis of the 2008-09 Budget Bill*, counties that participate in the Real Estate Fraud Prosecution Trust Fund Program (Program) are not providing consistent data on their activities under the program or may not be reporting at all.

Staff Comment: The Program was created in 1995 to allow counties to establish a fee of up to $2 for certain real estate documents filed with the county to support local law enforcement activities to fight real estate fraud. Under existing law, recipients of Program monies are required to provide an annual report on their activities and outcomes to the country board of supervisors, who must then submit the annual reports to the LAO. The LAO is required to annually compile the information in the reports and report to the Legislature. Although the legislation took effect at the beginning of 2006, the LAO indicates that it did not receive the first reports from the counties until October 2007, and then from only two—Sacramento and Santa Clara Counties. The LAO believes that, based on anecdotal evidence, as many as 22 counties may be participating in the program. This suggests that many counties may not be aware of their obligation to report on the program. Additionally, the LAO notes that inconsistencies in the presentation of the data submitted may make the reports less valuable to the Legislature in setting future policy.

The subcommittee may wish to ask the DRE how to best address these issues.

No action necessary.

8940 Military Department

The California Military Department (CMD) 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 (CNG) is to provide military service supporting this state and the nation. The three missions of the CNG are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The CMD is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the CMD also receives Federal Funding directly from the Department of Defense.

The Governor's Budget begins by funding 888.5 positions (a net increase of 77.0 positions over adjusted current year totals) and budget expenditures of $146.5 million (including $47.5 million GF) for the department, but then includes 10-percent, across-the-board, GF reductions (BBRs) of approximately $4.6 million. The individual BBRs are as follows:

Program	**General Fund***	**Personnel Years (PYs)**
Army National Guard	-$1,621	-2.9
Air National Guard	-$400	--
Office of the Adjutant General—Admin.	-$1,382	-8.6
Military Support to Civil Authority	-$200	-1.9
Military Retirement	-$200	--
California Cadet Corps	-$119	--
State Military Reserve	-$100	--
CA National Guard Youth Programs	-$700	-5.7
TOTALS	-$4,622	-19.1

(*dollars in thousands)

As illustrated in the table below, the net effect of the Governor's proposals would be a 7.0 percent increase in total funds for the CMD (relative to adjusted Fiscal Year 2007-08 totals) primarily as a result of a proposed assessment on multiperil insurance policies to fund the Governor's Wildland Firefighting Initiative, including new firefighting capabilities in the CMD budget (see Discussion Item 10 below). Staff notes that, given multiple GF augmentations proposed in the CMD, the Governor's 10-percent, across-the-board reductions would result in a less than 2-percent reduction in the CMD GF budget (relative to adjusted Fiscal Year 2007-08 totals).

	Total Funds*	General Fund*
Adjusted 2007-08 Budget	$131,650	($43,802)
2008-09 Base Budget	$146,534	($47,549)
Proposed Budget-Balancing Reductions	-$5,622	(-$4,622)
GOVERNOR'S REVISED 2008-09 TOTALS	$140,912	($42,927)
Change—Year Over Year	+7.0%	-1.9%

(*dollars in thousands)

VOTE-ONLY ITEMS:

1. BBR: Army National Guard. The Governor proposes a reduction of $1.5 million GF and 3.0 positions to this program, whose objective is to optimize the readiness of the CNG's community-based land force to respond to state emergencies and national security missions.

Staff Comment: According to the CMD, this reduction would delay major and minor repairs. Staff notes that this program is predominantly supported by federal funds (approximately $48.7 million in FY 2008-09), and this reduction would result in the loss of $100,000 in federal matching funds. Taken together, the proposed GF and federal fund reductions represent approximately 2.5 percent of the overall program budget; however, the CMD indicates the way in which the reduction would be taken would result in a 14.3-percent reduction to the maintenance, repair, and modernization budget.

2. BBR: Air National Guard. The Governor proposes a reduction of $400,000 GF to this program, whose objective is to optimize the readiness of the CNG's community-based air force to respond to state emergencies and national security missions.

Staff Comment: According to the CMD, this reduction would result in a more rapid deterioration of facilities and increase safety and environmental risks. Staff notes that this program is predominantly supported by federal funds (approximately $15.6 million in FY 2008-09), and this reduction would result in the loss of $400,000 in federal matching funds. Taken together, the proposed GF and federal fund reductions represent approximately 4.0 percent of the overall program budget. Staff additionally notes that the Legislature approved a Current Year (CY) reduction of $100,000 GF to this program in special session.

3. BBR: Office of the Adjutant General—Administration. The Governor proposes a reduction of $1.4 million GF and 9.0 positions to this program, which provides strategic methodology and organization to fulfill CNG missions and governs the joint activities and performance of the CMD in such areas as personnel and fiscal resource management, judicial affairs, internal controls, facility management, and information technology.

Staff Comment: According to the CMD, the department would eliminate 8.6 PYs including 3.0 positions in the Military Funeral Honors Program, reducing program capability by 60 to 75 funerals per month (or 720 to 900 per year). As previously noted in special session, when the Legislature approved a $700,000 reduction to this program, in 2007-08, the Legislature approved $1.8 million GF and 23.0 positions to meet the need for approximately 1,000 military funeral honors per month. Although acknowledging this proposal would necessarily reduce the day-to-day capability of the program, the department still anticipates being able to meet peak workload, and its 1,000 funeral goal, using staff overtime.

4. BBR: Military Support to Civil Authority. The Governor proposes a reduction of $200,000 GF and 2.0 positions to this program, which plans and prepares to support civil authority when called to state service by the Governor due to domestic emergency or natural disaster and to provide state, county, city, and other public agencies with the coordination necessary to insure a timely, organized response.

Staff Comment: According to the CMD, this proposal would reduce operational and emergency response planning efforts, primarily for future missions (as opposed to current missions such as search and rescue, wildfire fighting, and flood and earthquake response). Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

5. BBR: Military Retirement. The Governor proposes a reduction of $200,000 GF to this program, which provides retirement benefits to persons who entered state active duty prior to October 1, 1961, and have served 20 or more years, at least 10 of which have been on state active duty, or have been separated for physical disability.

Staff Comment: According to the CMD, this proposal would result in minimal impact because the program exclusively serves individuals who served prior to October 1, 1961. Therefore, the number is not growing and is in fact shrinking as retirees pass away (which is how the savings will be generated). Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

6. BBR: State Military Reserve (SMR). The Governor proposes a reduction of $100,000 GF to this program, a volunteer organization that supports the CMD's CNG organizations during training, preparation for mobilization, demobilization, and military support to civil authorities during periods of state emergencies or disasters.

Staff Comment: According to the CMD, this proposal would reduce the department's ability to train SMR forces to respond to state emergencies.

7. BCP-5: Custodian for Roseville Armory. The CMD requests 1.0 position and $66,000 GF to hire a custodian for the newly expanded Roseville Armory.

Staff Comment: Custodial services are necessary to maintain the armory, protect the health and safety of those who use it, and avoid costs that would stem from untimely deterioration of the facility if regular cleaning and basic maintenance is not conducted. Staff notes that the cost for the requested position was noted in the capital outlay request for the expansion and remodel of the Roseville Armory (FY 2005-06).

8. BCP-6: State Active Duty (SAD) Employee Compensation Increase. The CMD requests a baseline augmentation of $1.3 million ($604,000 GF and $722,000 federal funds) to cover SAD employee compensation increases set by Congress.

Staff Comment: Because the state and federal fiscal years are staggered, this request seeks funds to address two federal employee compensation increases that will affect CMD expenditures in FY 2008-09. The first federal increase came on January 1, 2008, and the second is anticipated to occur on January 1, 2009. Consistent with previous practice, this request is accompanied by proposed provisional language that would ensure that the augmented spending authority is provided contingent upon federal approval of the estimated compensation increase.

9. BCP-12: CNG Financial Assistance Fund Manager. The CMD requests 1.0 position and $87,000 reimbursement authority to hire a manager to oversee the Iraq Afghanistan Development Impact Program (IADIP).

Staff Comment: The IADIP is a program supported entirely with private donations that supports families of deployed or formerly deployed National Guard members suffering from financial hardships. This position would oversee all aspects of the program.

10. BCP-13: Homeland Security Training and Exercise Program. The CMD requests continuation of $7.5 million in reimbursement authority and 13.0 limited-term (LT) positions (10.0 re-establishments and 3.0 new) to execute a continuing interagency agreement with the Governor's Office of Homeland Security (OHS).

Staff Comments: For the past three years, the CMD has provided statewide oversight of homeland security terrorism training and exercise activities supported by federal funding under the Homeland Security Grant Program managed by the OHS. Although the CMD requests 3.0 additional LT positions in continuation of these efforts, the department indicates that the programming levels, through FY 2010-11, will remain the same (at $7.5 million per year). Based on past experience, the CMD merely plans to utilize available funds to support a different mix of resources in support of the operation.

11. FL: Critical Infrastructure Protection (CIP) Teams. The CMD requests 14.0 limited-term positions and $2.1 million in reimbursement authority to execute an interagency agreement with the OHS to establish two CIP Teams to assess designated critical infrastructure sites and develop recommendations to mitigate vulnerabilities (including assisting sites in the development of security plans).

Staff Comments: Similar to Vote-Only Item 10 (above), the reimbursements for the aforementioned activities would be funded by the Homeland Security Grant Program managed by the OHS.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

Action: Approved the staff recommendation on a 2-0 vote.

DISCUSSION ITEMS:

1. BCP-2: Medical Services Branch Staffing. The CMD requests 3.0 positions and $228,000 GF to meet the increased need for services to wounded and deceased soldiers.

Staff Comments: The 3.0 positions requested would primarily address workload in the following two areas:

1. **Line of Duty (LOD) Reports—**An LOD report is related to the injury or death of a CNG soldier and contains the complete medical documentation and evidence required to support a claim related to a service-connected injury or illness. All medical payments and soldier Incapacitation Pay payments are contingent upon having an approved LOD. Typical processing time for a LOD report is 30-60 days and requires inputs and action at the unit, CMD, and National Guard Bureau. Timely processing insures that the soldier's medical bills are paid on time and avoids unnecessary problems with delinquent collection actions. Currently, the CMD has 269 open (not completed) LOD reports which affect CNG soldiers' receipt of medical benefits. From 2004-2007 over 1,117 CNG soldiers have been injured during pre-deployment training or during deployment and an average of 1,075 LODs were processed per year. Although the CMD indicates that current personnel allow the processing of only 66 percent of the required LODs, staff notes that the department has not provided sufficient data to support this contention or justify the need for the additional position requested for these activities.

2. **Casualty Assistance—**The CMD asserts that there is a shortage of staff to cover increasing casualty operations missions. From July 2004 through July 2007, the CMD had 158 CNG soldier casualties and completed 250 Casualty Notification Officer missions and 99 Casualty Assistance Officer missions. The CMD is required to have on call personnel 24 hours a day for its casualty operations mission. At present the CMD has 2.0 permanent and 1.0 temporary positions for this purpose. Casualty assistance is a full-time responsibility that can take several weeks of dedicated support and up to several months of follow up. Similar to above, the CMD has not provided sufficient data to support the contention that the department is short-staffed in this area.

All told, the above activities are currently supported by 4.0 permanent and 3.0 temporary positions. The CMD indicates that the 3.0 permanent positions requested would replace

3.0 temporary staff (1.0 state-supported and 2.0 federally supported) that will be released on or about September 30, 2007.

Staff Recommendation: DENY the request based on insufficient workload justification, but offer reconsideration should the department bring forward additional information in the future.

Action: Denied the request on a 2-0 vote, but offered reconsideration based on additional information.

2. BCP-3: Joint Operations Center (JOC) Staffing. The CMD requests 14.0 positions and $1.3 million GF for the JOC to provide immediate response to the Governor's Office, Office of Emergency Services (OES), and the public during disasters and special security events.

Staff Comments: The JOC serves California by providing command and control of CNG and State Military Reserve units assigned to emergency operations by the CMD. The JOC tracks the status of CNG units and equipment to ensure the CMD maintains appropriate capability to respond quickly and effectively to state emergency missions. JOC personnel work directly with the OES and the OHS on a daily basis to monitor potential threats from natural or man-caused disasters that may require deployment of military units to support civilian authorities.

The CMD currently operates the JOC by diverting federal funding from the Southwest Border Security mission (Operation Jump Start) to hire temporary soldiers and airmen in a federal status as staff. That funding is ending in July 2008. Prior to the start of Operation Jump Start, the CMD resourced the JOC by re-directing federal funds intended for positions that would perform maintenance on CNG vehicles and aircraft, which affected their readiness rates during missions and training. The resources requested in this proposal would enable the CMD to maintain the current level of 24/7 communications with state and local emergency response agencies and to respond within 12 hours to a request for emergency assistance (a 50-percent improvement in response time compared to historic levels when the JOC relied solely on the GF).

Staff notes that the current speed and quality of CMD emergency response is as high as it has ever been. Given that the current capability is partially supported by federal funding that is about to disappear, the Legislature is faced with a policy decision as to whether maintaining the current level of emergency response reflects the highest and best use of scarce GF. Since the CMD has previously found creative ways to improve JOC capability by redirecting federal funds, the subcommittee may wish to explore whether this is again an alternative given the current fiscal crisis. For example, Discussion Item 3 (below) contains new federal grant dollars for emergency planning activities that may share a nexus with the activities performed by JOC staff (when they are not actively responding to an emergency). Although the CMD recognizes emergency planning and response as two distinct and separate activities, and JOC personnel are ostensibly “response” staff, the subcommittee may wish the department to clarify whether JOC staff ever engage in planning that might be federal-eligible.

Given the scarcity of GF, the subcommittee may also wish to have the CMD provide several alternative scenarios involving reduced staffing levels (and, therefore, savings to the GF). For example, staff notes that the BCP includes an alternative in which $376,000 GF could be used to support 4.0 positions that would still allow 24/7 JOC staffing, but at a level of 1.0 position per shift instead of 3.0.

Staff Recommendation: HOLD OPEN.

Action: Held open.

3. FL: CMD Homeland Security Staffing. The CMD requests 6.0 limited-term positions and $800,000 in reimbursement authority to provide planning, training, and all-hazard emergency planning in support of the Governor's Office, Office of Emergency Services (OES), and OHS.

Staff Comments: This request would be supported by federal grant dollars awarded for the purpose of planning, training, and intelligence analysis associated with anti-terrorism and counter-terrorism efforts. The CMD indicates these resources would enable the department to continue to address concerns previously raised by the Bureau of State Audits about the CMD's lack of an adequate strategic planning process. According to the CMD, without the requested resources, the department "will not have the necessary staff to conduct the preparation, planning, training, exercises, and coordination in support of the OHS and other [state and federal agencies who respond in the case of an emergency]."

As noted above (in Discussion Item 2), it is not entirely clear whether, or if, there is overlap between the "all-hazard" planning activities supported by these federal funds and the planning the state would conduct "on-the-natural." Given the current fiscal crisis, the subcommittee may wish to verify with the CMD that there are not any allowable uses of these federal funds that would meet state objectives currently supported by GF. For example, staff has raised the question (above) as to whether there are activities carried out by JOC staff that would qualify for federal support.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

4. BCP-4: Computer Lifecycle Replacements. The CMD requests $273,000 GF in 2008-09 (and $538,000 ongoing) to fund computer lifecycle replacements (at a rate of 25 percent each year—or complete refresh every 4 years).

Staff Comments: The CMD is authorized 780.0 state personnel assigned to 51 different Sections. In the past, each Section has funded IT equipment using funds redirected out of its internal base program. This has led to a significant department-wide disparity in capability and configuration. The CMD indicates that over the last three years only 20 Sections purchased IT equipment with state funds. Most Sections have purchased IT equipment using redirected discretionary federal funds.

According to the CMD, a baseline funding allotment for IT would allow the Directorate of Information Management to proactively manage the lifecycle of user level IT equipment. The result would be 1) compatibility with and networthiness on the Army network which is used throughout the CMD for day-to-day operations; 2) volume discounts; 3) configuration management limiting the number of different makes and models of equipment; 4) reduction in time and labor required to review and approve individual purchase requests and inventory management; and 5) replacement of equipment before Sections experience unacceptable rates of equipment failures.

Staff Recommendation: DENY the request without prejudice toward the potential need, and offer the CMD reconsideration under improved fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

5. BCP-8: California Cadet Corps (CaCC) Staff and Operating Funds. The CMD requests 1.0 position and $185,000 GF to purchase new cadet uniforms and better coordinate administrative support activities and logistics for the CaCC Program.

Staff Comments: The CaCC is a school-based, applied leadership program conducted within a military framework at high schools and middle schools statewide. Currently, the program is provided at 89 schools and serves approximately 10,000 students. The development and maintenance of the individual units of the CaCC is a shared responsibility of the local school authorities and the CMD.

According to the CMD, permanent funding cuts and loss of positions five years ago has resulted in the neglect of cadet uniforms over the past several years to the point that existing uniforms are sub-standard and do not adequately reflect the pride and esprit de corps of the students wearing the uniform. The current CaCC baseline budget of $450,000 provides approximately $45.00 in funding per cadet, per year. The cost of one class B uniform alone is $52.00 (which does not include the costs of shoes). In addition, the current CaCC budget does not allow for the purchase and distribution of the cadet physical fitness uniform ($32.00) or the cadet utility uniform ($69.00). This request would provide approximately $110,000 for new uniforms and fund 1.0 new position to conduct administrative activities and provide logistical support for the program.

Staff notes that this proposal does not meet the subcommittee's fiscal crisis-criteria of addressing life and safety concerns or generating offsetting revenues or savings. Additionally, the requested position does not appear well justified. Insofar as the alternative was not explored in the BCP, the subcommittee may wish to encourage the CMD to consider reducing the number of students served by the program in order to more adequately meet the uniform needs of the participants within existing resources.

Staff additionally notes that this item is directly related to Item 6 (below) in which the Governor has proposed a 10-percent reduction to the CaCC Program (an $119,000 GF reduction). Staff notes that if both items were approved, the result would still be a net increase of $66,000 GF to the program.

Staff Recommendation: DENY the request.

Action: Denied the request on a 2-0 vote.

6. BBR: California Cadet Corps (CaCC) Program. The Governor proposes a reduction of $119,000 GF to the CaCC Program.

Staff Comment: As noted in Item 5 (above), the Governor's Budget first builds up the CaCC Program budget and then proposes to cut most, but not all, of the increase. According to the CMD, the combined effect of these proposals (if both are approved) would be to limit the department's ability to provide new uniforms to participants in the CaCC Program. However, if the subcommittee opts to deny the augmentation in Item 5, it may wish the CMD to provide additional information on the potential impact before deciding to take the additional reduction reflected in this proposal.

Staff Recommendation: DENY the reduction.

Action: Denied the reduction on a 2-0 vote.

7. BBR: California National Guard Youth Programs. The Governor proposes a reduction of $1.2 million GF and 6.0 positions to this program, which operates five youth programs located throughout the state.

Staff Comment: According to the CMD, the proposed reduction would be taken in the following manner: (1) Headquarters of Youth Programs: 1 PY in management; (2) Oakland Military Institute: 1 PY dedicated to student supervision and training; (3) Grizzly Youth Academy: $212,000 in state funding, $318,000 in federal funding, and 1 PY, requiring it to serve 90-100 fewer students annually; (4) Challenge Support: $56,000 and 1 PY and resulting in difficulty in reaching the graduation requirement of 200 students; and (5) Sunburst Youth Academy: $100,000 in state funding, $200,000 in federal funding, and 1 PY, requiring it to serve 80-90 fewer students annually.

Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

Staff Recommendation: APPROVE the reduction.

Action: Held open..

8. FL: Sunburst Youth Academy Staff and Operating Funds. The CMD requests 3.0 positions and $280,000 (federal funds) for the Youth ChalleNGe Program at Los Alamitos Joint Forces Training Base.

Staff Comment: The Youth ChalleNGe Program was established in 1993 and utilizes a 22-week residential phase and a one-year post-residential follow-up phase to intervene in the lives of at-risk high school drop-outs. The Sunburst Youth Academy is the CNG's second and newest Youth ChalleNGe Program, established in FY 2006-07 with $3.9 million ($900,000 GF) and 17.8 positions. The program is an accredited high school in which all Sunbrust students attend daily and are engaged in a course of study aimed at earning a high school diploma and/or making progress toward passing the General Educational Development test and California High School Proficiency Exam.

As noted above in Discussion Item 7, the Governor's proposed reductions to CNG youth programs would result in $100,000 less GF and $200,000 less federal funding to Sunburst (as well as loss of 1.0 PY), requiring it to serve 80-90 fewer students annually. According to the CMD, the GF-match for the requested funding is already contained in the program's baseline budget, but was not previously matched because it was used for non-eligible program start-up costs (like equipment purchase). Staff notes that these funds would all but offset the BBR proposed above and would enable the Sunburst Academy to continue its ramp-up to its original target of serving 150 students at a time. However, if the subcommittee chooses to maintain the level of service funded by the Governor's January 10 budget (i.e. 50 fewer students), then the proposed funding could be used to directly offset additional GF reductions to the program (and the current program service level would be "held harmless").

Staff Recommendation: APPROVE $114,000 in additional federal funding authority and reduce the Sunburst Youth Academy budget by a corresponding $114,000 GF.

Action: Held open..

9. BCP-14: CNG Education Benefit Program with TBL. The CMD proposes TBL to establish a new CNG Education Benefit Program, and requests 1.0 position and $1.8 million GF (and $3.6 million ongoing) to implement the program.

Staff Comment: In last year's budget, the CMD put forth a similar proposal for a new education benefit program to assist in the recruitment and retention of CNG members. However, the subcommittee denied the request without prejudice toward the need or potential benefit of the program because the policy of providing a non-needs-based education benefit represented a significant departure from existing policy and had not been vetted by the appropriate policy committee (Senate Education), and because the TBL was unworkable as proposed. The subcommittee encouraged the CMD to return at a future date with a more fully-vetted policy proposal.

This year, the CMD has proposed an education benefit program with the following characteristics:

- To qualify, a CNG member must: (1) be a California resident and an active member with two years of service in the CNG, State Military Reserve, or the Naval Militia; (2) have been accepted or registered at, or enrolled in, a qualifying institution (including a University of California—UC, California State University—CSU, or California Community College—CCC); and (3) agree to use the benefit to obtain a certificate, degree, or diploma that he or she does not already hold.
- The Adjutant General would review the program applications and certify the eligibility of the qualifying member to the Student Aid Commission (SAC).
- The SAC would be responsible for issuing the program awards which would not exceed the cost of attendance at the qualifying institution.

- The SAC would adopt rules and regulations, in consultation with the CMD, to administer the program, including provisions that establish the priorities for allocating available money to applicants.

The requested funding would cover the half-year costs in FY 2008-09, and the full-year costs thereafter, of program administration as well as fees, books, and supplies for approximately 1,000 awardees (including 500 at CCCs, 300 at CSUs, and 200 at UCs).

Staff notes that, concurrent with this budget request, the Administration has sponsored a policy bill, SB 1752 (Wyland), that was introduced containing the same language as the TBL proposed with the Governor's Budget. SB 1752 is currently in the Senate Education Committee, and the CMD indicates that it is working closely with policy staff there to address the committee's concerns. Consistent with past practice in the Senate (and not withstanding the Administration's identification of this request as a "baseline" budgeting issue), the subcommittee may wish to allow the proposed policy change to undergo a full hearing through the traditional bill process before providing funding to the program. Further, staff notes that given the subcommittee's current approach to new or recent legislation, this proposal would not clearly qualify for immediate funding anyway since there is not a direct nexus between the program and issues of life and health, nor are there immediate and offsetting revenues or savings.

Staff Recommendation: DENY the request.

Action: Denied the request on a 2-0 vote.

10. BCP-17: Wildland Firefighting Initiative. The CMD requests 43.0 positions and $9.2 million (Insurance Fund) to provide 24/7 Aviation Response Staffing and to purchase helicopters and aerial firefighting equipment in support of the Governor's Wildland Firefighting Initiative.

Staff Comment: The source of funding for this proposal is predicated on the Department of Insurance imposing on insurers an annual assessment of 1.25 percent of the premium for each commercial and residential multi-peril insurance policy. On a premium base of $10.5 billion, the proposed assessment would generate approximately $109 million in 2008-09 and an estimated $125 million annually thereafter. Under the Governor's budget proposals: (1) $77.6 million would be for CALFIRE staff, activities, and equipment; (2) $9.2 million for this BCP; (3) $1.9 million to OES to supplant baseline GF supporting the Mutual Aid Response program; and (4) $10.2 million for additional fire engines and firefighters for the OES.

On January 29th, the Full Committee heard this issue and raised numerous concerns with the viability of the funding proposal. In addition, the Department of Insurance in a letter to the Chair of the Full Committee cited constitutional, implementation, and mandatory sharing of non-individual risks issues with the funding proposal.

Staff Recommendation: DENY the request without prejudice, due to the lack of a stable funding mechanism. The subcommittee should revisit this issue if the Military can provide an alternative, non-GF funding source.

Action: Denied the request on a 2-0 vote.

11. COBCP-2: Kitchen Renovations Statewide. The CMD requests $500,000 (including $254,000 GF) to renovate and enlarge kitchen facilities within existing Life Support Areas at selected armories throughout California to correct fire/life safety, Public Health and other code deficiencies.

Staff Comments: The CMD indicates that kitchen facilities at many armories do not currently comply with applicable laws and regulations and cannot be used for cooking and food preparation. At a cost of $250,000 each, this request would fund the renovation and expansion of two kitchen facilities.

Staff notes that, to the extent the identified kitchen facilities are not in use, the proposed renovations are not absolutely necessary at this time. While life and safety have been identified by the subcommittee as funding priorities during the present fiscal crisis, based on information provided by the CMD, the existing facilities do not appear to pose an immediate risk to anyone so long as current practice prevails and they remain unused. Should the subcommittee opt to deny this request and save $250,000 GF, the CMD's long-term plan to renovate its armory kitchen facilities statewide (at the rate of approximately two kitchens per year) would be delayed. This would result in the identified kitchens continuing to be unsafe for use in the case of an emergency.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

12. COBCP-1: Latrine Renovations Statewide. The CMD requests $579,000 (including $232,000 GF) to renovate and enlarge latrines within existing Life Support Areas at selected armories throughout California to redress Americans with Disabilities Act (ADA), and other code deficiencies.

Staff Comments: According to the CMD, most state armories are over 50 years old and do not meet ADA requirements. In addition to remedying ADA compliance issues, the CMD indicates this request would provide separate showers for females in some armories where they are not currently available.

Staff notes that, similar to the kitchen renovations above (Discussion Item 11), these renovations are part of a long-term plan to update latrine facilities statewide that have been funded in the past. However, given the current fiscal crisis, the subcommittee may wish to suspend/delay these renovations.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

13. COBCP-6: Advance Plans and Studies. The CMD requests $250,000 (including $125,000 GF) to conduct studies and design charrettes for planned projects in order to improve the CMD's ability to scope and estimate funding.

Staff Comments: The CMD's current method for developing the scope of projects, which tends to underestimate the higher costs of construction in California, has not been accurate, and this has often resulted in project cost overruns. According to the CMD, this request would better enable the department to scope and fund projects appropriately.

Staff notes that, although the proposed studies might result in long-term savings to the state by accurately scoping and resourcing capital outlay projects (and avoiding costly delays), the current fiscal crisis makes it significantly less likely that any major projects will be funded in the immediate future. Therefore, this request may not produce any immediate benefits.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

Control Section 25.25—21st Century Project

This control section authorizes the State Controller to assess various special and nongovernmental cost funds and reimbursements to pay for the Controller's costs, not to exceed $16,446,000, in implementing the 21st Century Project (a replacement of the existing automated human resource/payroll systems).

Staff Comment: Staff notes that the 21st Century Project budget request was held open when the State Controller's budget was heard on March 26, 2008, because the Administration anticipated submitting an updated request with the Governor's May Revise. Although the Administration has proposed no significant substantive changes to the language in this control section, the dollar limit contained therein will need to reflect the final amount approved for the project. Thus, in order to deal with this item expeditiously, the subcommittee may wish to close this item by acknowledging that it will conform to the final action taken on the Controller's budget.

Staff Recommendation: CLOSE the item consistent with the rationale stated above.

Action: Approved the staff recommendation on a 2-0 vote.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom Harman
Christine Kehoe

Hearing Outcomes

Thursday, May 22, 2008
Upon adjournment of session
Room 112

Consultants: Daniel Alvarez, Jacqueline Wong-Hernandez, Brian Annis

Open Issues and May Revision

Department Budgets Proposed for Consent / Vote Only

1900 Public Employees' Retirement System

Budget Adjustments – May Revision Letter. The Constitution grants the PERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. The special authority provided to PERS by the Constitution does not extend to the component of the Health Benefits Program funded from the Public Employees' Contingency Reserve Fund, and, therefore, PERS submits BCPs and Finance Letters to the Legislature for budget changes in those areas. The May Letter requests two adjustments: (1) various changes are requested to "non-add" budget items to conform the budget bill to the CalPERS general administration budget adopted at the April 23 Board meeting, and (2) a reappropriation from the Contingency Reserve Fund is requested at $3.1 million to continue the Health Care Decision Support System Innovative Progress Project approved in the 2007 Budget Act (this project is expected to produce cost avoidance). The Department of Finance indicates they incorrectly scheduled a couple of items in adjusting the CalPERS general administrative budget, and requests approval to make appropriate corrections.

Staff Recommendation: Approve the May Revision request, and the technical scheduling corrections requested by the Department of Finance.

Action: Approved Staff Recommendation on a 3 – 0 vote.

9600 Debt Service General Obligation Bonds and Commercial Paper

Cost Adjustments – May Finance Letter. The January Governor's Budget reflected bond debt service under this item of $3.7 billion in 2007-08 and $4.3 billion in 2008-09. A May Revision Finance Letter requests technical budget changes to conform the budget to the State Treasurer's sales plan and updated interest assumptions. The Finance Letter indicates that General Fund cost will fall by $44.0 million in 2007-08 (to $3.3 billion) and fall by $37.3 million in 2008-09 (to $4.0 billion). In addition to the General Fund payment, the Transportation Debt Service Fund (which receives a portion of gasoline "spillover" sales tax revenue) is budgeted to fund debt payment of $378 million (up $24.2 million from the January Budget). Debt service payments are continuously appropriated, and therefore not appropriated in the annual budget bill – this is a technical adjustment to score the budget savings. The Department of Finance indicates they incorrectly scheduled a couple of items related the Transportation Debt Service Fund (no net change to the General Fund savings indicated above), and requests approval to make appropriate corrections.

Staff Recommendation: Approve the May Revision request, and the technical scheduling corrections requested by the Department of Finance.

Action: Approved Staff Recommendation on a 3 – 0 vote.

9650 Health and Dental Benefits for Annuitants

Cost Adjustments – May Finance Letter. This budget item provides funding for health and dental benefit services for more than 210,000 retired state employees and their dependents. The January Governor's Budget included $1.281 billion ($1.262 billion General Fund, and $19 million Medicare Part-D federal reimbursements) for Health and Dental Benefits for Annuitants – an increase of $143 million. However, the retiree healthcare cost is adjusted after the enactment of the budget to collect the special fund and federal share through the pro rata / SWCAP process – so the final General Fund cost is actually reduced by about $561 million. The LAO indicates that the Administration's cost figures assume a 3 percent growth in retirees and a 9.5 percent increase in premiums. The May Letter re-estimates healthcare inflation at 7.5 percent, and in conformance, reduces General Fund expenditures by $13.5 million. Note, the 2008 healthcare premium increase was 6.3 percent, but that is far below the historic average. Additionally, the Administration expects a $17.5 million increase in federal Medicare Part-D reimbursements, and in conformance, reduces General Fund expenditure by an additional $17.5 million. The final CalPERS-negotiated rates will likely be available in June; therefore, it should be made a Conference Committee issue so it can be adjusted to conform to the final rates. The LAO notes with some optimism that the final CalPERS rates may result in additional savings. Note, the 9650 Item was also discussed at the April 7 Subcommittee hearing.

Staff Recommendation: Approve the May Revision request, but also modify by +/- $1,000 to put into Conference.

Action: Approved Staff Recommendation on a 3 – 0 vote.

9840 Augmentations for Contingencies or Emergencies

Funding Reduction – Governor's Budget. This budget item provides additional expenditure authority 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 Fund (proposed at $44.1 million after a 10-percent reduction), special funds ($15.0 million), and other unallocated non-governmental cost funds ($15.0 million). No department augmentation can be made until 30 days after notification in writing to the Joint Legislative Budget Committee. A similar item was approved by the Legislature with the 2007 Budget Act. The only year-over-year change proposed for this budget is a $4.9 million reduction to the General Fund appropriation to help address the General Fund budget gap.

Staff Recommendation: Approve the Governor's Budget, including the 10 percent General Fund budget reduction.

Action: First motion to reduce General Fund to $35 million was rejected on a 1 – 2 vote, with Senator Harman voting aye. The second motion to approve General Fund of $44.1 million was approved on a 3 – 0 vote.

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Updated CalPERS Rates – May Finance Letter. 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 January Governor's Budget reflected contributions to CalPERS in 2008-09 of $2.8 billion ($1.6 billion General Fund) – an increase of $80 million over 2007-08 (including a $45 million General Fund increase). CalPERS has recalculated the rates and the Administration submitted a May Finance Letter to update the budget. The new rates result in savings of $56.4 million General Fund and savings of $37.0 million other funds (relative to the January budget). Note, Control Section 3.60 was also discussed at the April 7 Subcommittee hearing.

Staff Recommendation: Approve the May Revision request.

Action: Approved Staff Recommendation on a 3 – 0 vote.

Control Section 12.00 State Appropriations Limit

Technical Change to Conform to Final Budget: Control Section 12.00 of the budget bill specifies the amount of the State Appropriations Limit (or SAL) pursuant to the requirements of Section XIIIB of the California Constitution. The SAL was established by Proposition 4 in 1979 and places an "upper bound" each year on the amount of money that can be spent each year from state tax proceeds (with specified exceptions). The SAL grows each year by a population and cost-of-living factor. This control section should be a Conference Committee issue, so it can be adjusted as a conforming action to tie to the final budget. Therefore, direct Finance to make a minor adjustment (such as +/- $1,000 in the estimate) to put the issue into Conference.

Staff Recommendation: Approve, but modify item by +/- $1,000 to put into Conference.

Action: Approved Staff Recommendation on a 3 – 0 vote.

Control Section 35.50 State Appropriations Limit

Control Section 35.50 – Budget Stabilization Account: Control Section 35.50 of the budget bill is a technical budget item that specifies budget treatment of the Budget Stabilization Account pursuant to the requirements of the California Constitution. This control section specifies the General Fund revenues estimated for the 2008 Budget Act. This Item should be a Conference Committee issue, so it can be adjusted as a conforming action to tie to the final budget. Therefore, direct Finance to make a minor adjustment (such as +/- $1,000 in the estimate) to put the issue into Conference.

Staff Recommendation: Approve, but modify item by +/- $1,000 to put into Conference.

Action: Approved Staff Recommendation on a 3 – 0 vote.

0690 *Office of Emergency Services,* Public Safety Interoperable Communications (PSIC) Grant Authority

Increase Federal Trust Fund Authority. The OES received a new, one-time federal PSIC Grant to enhance interoperable communications, and which will be used for a variety of projects related to interoperability. The OES requests $598,000 additional Federal Trust Fund authority to hire a contractor to develop Memorandums of Understanding with counties, research and create best practice standards, and create written Standard of Operating Procedures. The OES has indicated that there is not match requirement for this use of PSIC funds.

Staff Comment: Approving this item will allow the OES to access $598,000 in additional PSIC funding for the areas noted above. [Note: all other actions taken by the Subcommittee on PSIC are unchanged, and all other issues related to May Finance Letter #2 have been addressed through previous actions.]

Staff Recommendation: Approve $598,000 in additional Federal Trust Fund authority from the PSIC Grant.

Action: Approved Staff Recommendation on a 3 – 0 vote.

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

Staff Recommendation: Approve the Staff Recommendations, as indicated under each issue, for all the consent / vote-only budgets and Control Sections.

Action: See above actions for individual issues.

Issues for Discussion and Vote:

0690 OFFICE OF EMERGENCY SERVICES

Emergency Response Initiative. The Administration, at May Revision, is proposing a revised Emergency Response Initiative and Account for implementation and collection of special purpose assessments on commercial and residential fire and multi-peril insurance policies. Fundamentally, this proposal establishes a cost recovery for emergency fire and rescue services provided by the State of California, which according to the OES is necessary to offset the expenses (operating, capital, debt) of providing quality emergency services.

[*Note that in January, the Governor proposed the Wildland Firefighting Initiative to enhance the emergency response capabilities of the Department of Forestry and Fire Protection (CAL FIRE), the OES, and the Military Department. On January 29, the Full Committee heard this issue and raised numerous concerns with the viability of the funding proposal. In addition, the Department of Insurance in a letter to the Chair of the Full Committee cited constitutional, implementation, and mandatory sharing of non-individual risks, issues with the funding proposal*.]

<u>Specifically, the revised Emergency Response Initiative will do the following:</u>

- Establish a two-tier fee structure on residential and commercial insurance policies based on hazard zone designations.

  As determined by OES, the assessment will be equivalent to 1.4 percent of an insurance premium located in a “high hazard” area, and 0.75 percent of the insurance premium in a “low hazard” area.

- Require that OES administer the fee and the newly-created Emergency Response Account.

- Provide a $30 million loan from the Restitution Fund to the Emergency Response Account to “jump-start” expenditures from the account in 2008-09. The loan would be paid back over a three-year period.

- Apply the assessment on all insurance policyholders, rather than insurance companies.

- Specify that the purpose of the assessment is for “hazards” (earthquakes, flood, or wildland fire) rather than only firefighting (although proposed expenditures lean toward firefighting equipment).

<u>Expenditure Requests</u>

- In 2008-09, the OES requests $3.7 million as part of this proposal, for the following: (a) $1.3 million and 10 positions (growing to 21 positions in BY +1) to establish the Fee Collection and Audit / Compliance Units; (b) $1.9 million to backfill the 10-

percent GF reduction to Program 15 – Mutual Aid Response; and (c) $480,000 for the fire engine fleet fuel and maintenance costs.

- In 2009-10, the OES requests an additional $9.7 million to begin the 5-year implementation plan to add 131 new fire engines to the OES fire fleet.

- CALFIRE implications. This proposal would provide funding for the following 2008-09 activities: (a) $28.9 million for 2008-09 fire season; and (b) backfill $49.1 million to CALFIRE's share of the Governor's GF budget balancing reduction.

Staff Comments:
- This proposal begins a fundamental policy shift of cost recovery for emergency and fire rescue services provided by the State of California.
- The spending plan is almost identical to the initial proposal, except delayed by one year in some instances. And the expenditures still lean heavily toward fire suppression equipment.
- Relies heavily on borrowing in the first-year -- $30 million Restitution Funds.
- Documentation does not provide a clear explanation of the criteria used to establish a 1.40 percent or 0.75 percent assessment fee on insurance premiums.
- The modified proposal significantly increases OES administrative functions – to include assessment collections, auditing, appeals, fines, and development of new regulations.

Staff Recommendation:
Given the lack of policy discussion on the implications of charging for emergency and rescue services, the lack of clear information on the proposal, increased reliance on borrowing, and expansion of bureaucracy, the staff recommendation is to take no action.

Action: No action taken.

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The total cost to build the entire system was most-recently estimated at $37 billion (in 2002 dollars).

The January Governor's Budget proposed $5.2 million for the HSRA, of which $1.7 million is from the Public Transportation Account (PTA) and $3.5 million is from reimbursements. This represents a reduction of $15.9 million from 2007-08; however, the current year funding includes one-time Proposition 116 (the Clean Air and Transportation Improvement Bond Act of 1990) funding of $15.6 million. No change is proposed year-over-year to the number of positions which are budgeted at 9.3 positions. A May Revision Letter proposes to increase 2008-09 funding by $41.2 million.

Issue Proposed for Discussion:

1. **November 2008 Bond Vote and May Revision Letter.** The May Revision proposes to augment the January budget by a total of $41.2 million (to a new total amount of $46.4 million). As noted in the January *Governor's Budget Summary*, the Governor supports a High Speed Rail bond for the November ballot. Staff understands that Assembly Bill 3034 (Galgiani) is supported by the Administration and would make changes to the bond language currently on the November ballot. AB 3034 is scheduled to be heard in the Assembly Appropriations Committee on May 22. The new funding proposed by the May Revision would come from the following three sources and with the specified conditions:

   - New PTA: A $10 million PTA augmentation is proposed for expenditure in the July to November 2008 period prior to the November election. Budget bill language is proposed to revert any of this funding that is not encumbered or expended by February 1, 2009.
   - New Prop 116: $8.2 million in unexpended funds from a 1990 general-obligation rail bond have been identified for redirection from Caltrans to the HSRA. While the funds could be used for any segment of the high-speed route, the Administration proposes budget bill language to earmark the entire $8.2 million for the Sacramento to Fresno segment. The HSRA indicates that of this amount, $2.1 million would be expended prior to the November election and $6.1 million would be expended after the November election.
   - New November 2008 Bond Funds: $23.0 million is proposed from the Safe, Reliable High-Speed Train Bond Act for the 21st Century (HST Bond), and would only be available for expenditure if voters approve the bond at the November 2008 ballot.

   LAO Comment: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst points out that if there is no funding for the continuing contract work in the budget, the work is likely to stop at the end of the current year and would not resume until after the bond funds are available. The interruption in contract work would likely result in higher costs once the projects start again. In addition, the LAO notes that without the continuation of the contract work in the budget year, a portion of the $3.5 million in reimbursements from the Orange County Transportation Authority (OCTA) may not materialize either.

Staff Alternative to Minimize PTA Cost : The HSRA budget was also discussed at the April 23 hearing, and the existing Public Transportation Account (PTA) operating deficit was a concern raised by the Subcommittee. With the identification of $8.2 million in available Prop 116 funds, a new option is presented that was not discussed on April 23. However, in earmarking Prop 116 funds for a single rail segment, the Administration is not minimizing PTA expenditures. If the earmark language is deleted, the entire $8.2 million in Prop 116 funds could be directed to the pre-election period and the PTA budget appropriation could be reduced by $6.1 million (to a final total of $5.6 million). In conformance, the HST bond could be increased by $6.1 million so the final budget ties to that proposed.

Staff Comment: The fate of the high speed rail project seems highly dependent on the will of the voters at the November 2008 election. Without approval of the bond, there is no funding of the magnitude necessary to begin significant implementation of the project. However, the Legislature in the past two years has provided about $35 million to perform some *relatively* lower-cost early development activities to speed the completion of the project and avoid some construction inflation costs. Given this precedent, the Legislature may want to consider the May Revision proposal, along with the “Staff Alternative” above, to provide “bridge” funding between this fiscal year and the November 2008 election on the bond. The net new PTA cost above the Governor’s budget would be $3.9 million.

Staff Recommendation: Approve May Revision with the following modifications:
- Delete the Prop 116 earmark budget bill language.
- Reduce the PTA appropriation by $6.1 million.
- Increase the HST Bond appropriation by $6.1 million.

Action: Approved Staff Recommendation on a 2 – 1 vote, with Senator Harman voting no.

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 January Governor's Budget proposed total expenditures of $13.887 billion ($1.485 billion General Fund) and 22,430.0 positions, a decrease of $262.7 million (2 percent) and an increase of 148.0 positions relative to the adjusted 2007-08 budget. The decrease is primarily due to the receipt of $460 million in unanticipated one-time federal funds in 2007-08.

Issues proposed for Consent / Vote-Only:

1. **Proposition 42 Forecast Adjustment (May Finance Letter)**. The Administration proposes to fully fund Proposition 42. Based on new Department of Finance revenue estimates, the amount of the Prop 42 transfer in 2008-09 will be $1.432 billion, with 40 percent for the State Transportation Improvement Program, 40 percent for local streets and roads, and 20 percent for public transportation. The amount of Prop 42 revenue is down $53 million relative to the January estimate.

2. **Project Resourcing and Schedule Management System (May Finance Letter).** The Project Resourcing and Schedule Management System (PRSM) information technology project was discussed at the April 23 hearing and a reappropriation was approved for $11.6 million (State Highway Account). The May Revision Letter indicates that the active bid for the project was higher than estimated and that total projects costs are expected to be $5 million higher. The Finance Letter requests a project augmentation of $5 million. PRSM would improve the management and tracking of Capitol Outlay Support (COS) costs for transportation projects, adding new functionality so Caltrans could easily track COS costs by individual project and tie that information to employee timekeeping.

3. **Fuel Price Budget Augmentation (BCP #3 and May Finance Letter)**. The January budget requested $13.5 million (State Highway Account) to bring fuel funding from a base of $2.04 per gallon to $2.97 per gallon. The May Letter requests an additional $7.8 million (also State Highway Account) to bring fuel funding from $2.97 per gallon to $3.55 per gallon. Caltrans estimates it will use approximately 13.5 million gallons of fuel in 2008-09. This issue was discussed at the April 23 hearing and held open in anticipation of the May Letter.

   Staff Recommendation: Approve these requests.

Action: Approved all vote-only requests above on a 2 – 0 vote, with Senator Harman absent.

Issues proposed for Discussion / Vote:

4. **Proposition 1B Local Assistance and Capital Outlay (Governor's Budget and May Revision Letter)**. The 2007 Budget Act and associated legislation appropriated a total of $4.2 billion, or 21 percent, of total Proposition 1B funds. The January Governor's Budget requested $4.67 billion, or 23 percent, of total Prop 1B funds for the 2008-09. This issue was discussed at the April 23 hearing and most Prop 1B appropriations were approved. The issues left open have to do with the Intercity Rail Program and the State Local Partnership Program. A May Finance Letter was submitted for the Intercity Rail issue.

   Background / Detail: The issues for consideration for the two open bond programs are as follows:

   - **Intercity Rail:** Proposition 1B includes $400 million for Intercity Rail, and specifies $125 million of that amount shall be used for the procurement of additional intercity railcars and locomotives. $188 million was appropriated with the 2007 Budget Act and the Governor's Budget proposes $73 million for 2008-09. Last year, the Administration proposed and the Legislature approved language restricting expenditure of funds until the Department of Finance (Finance) completed a passenger rail audit and reached agreement with Caltrans on ridership projections. Both phases of the audit are complete, but the Department of Finance has not, to date, released the funding. Finance has, however, indicated it should be releasing funding soon on $46 million in funding for rail projects already approved by the California Transportation Commission (CTC). Rail advocates have expressed concern that the Finance review is delaying projects. The May Letter would reappropriate the 2007-08 funding and delete similar budget bill language in the 2008-09 budget bill, such that upon chaptering of the budget bill, Caltrans would no longer be bound by the restriction of obtaining approval from the Department of Finance. Finance additionally anticipates an overall agreement will be in place in the near future.
   - **State Local Partnership:** Proposition 1B includes $1.0 billion for the State Local Partnership Program. The bond language specifies a dollar-for-dollar match of local funds to match any bond grants. The broader intent, as Staff understands it, is to reward and encourage local governments to implement local-measure sales taxes or other revenue measures to supplement federal and State transportation revenues. Implementation issues were still under review last year, and since $4.2 billion in other Prop 1B programs was already appropriated, it was decided to defer implementation of the State Local Partnership Program to 2008-09. The Governor's Budget proposes $200 million for the Program in 2008-09 with budget bill language to allow the Finance Director to augment funding by $50 million.

   Staff Comments: Comments on the two open Prop 1B programs are below. It should also be noted that the Department of Finance submitted a May Letter to adjust the appropriation for the Trade Corridor Improvement Program to conform funding to the projects adopted by the CTC in March 2008. However, the

Subcommittee already took this action at the April 23 hearing, so no further action is required.

- **Intercity Rail:** The May Revision request to delete budget bill language requiring Finance approval prior to Caltrans expenditure of Intercity Rail funds would seem to partially address the concerns raised by rail advocates that the Department of Finance is slowing project implementation. Finance expects to reach agreement with Caltrans soon, but if that is delayed past the chaptering of the budget bill, Caltrans would no longer have a budgetary restriction to obtain Finance approval prior to expenditure. The Subcommittee may want to adopt additional BBL stating legislative intent that Prop 1B funds for Intercity Rail be spent prudently and expeditiously. (see attachment A at the back of this agenda).
- **State Local Partnership:** Prop 1B specifies funds be allocated over a five-year period, and Staff understands most interested parties are agreeable to equal annual appropriations of $200 million. The contentious issue seems to be the allocation formula and the determination of what types of local transportation revenue should qualify (i.e. local sales tax measures, locally-approved toll revenue, developer fees, etc.). Given the desire to implement this program in 2008-09, and the fact that no implementing policy bill has been enrolled, the Subcommittee may want to adopt *placeholder* trailer bill language to implement the Program. Additionally, since Staff is not aware of any concerns with annual appropriations of $200 million, it may be appropriate to delete the language allowing the Director of Finance to augment the amount by $50 million.

Staff Recommendation:

- Approve the May Finance Letter for Intercity Rail.
- Adopt additional placeholder BBL stating legislative intent that Prop 1B funds for Intercity Rail be spend prudently and expeditiously. (see attachment A)
- Adopt placeholder trailer bill language to implement the State Local Partnership Program.
- Reject the budget bill language allowing the Director of Finance to augment the State Local Partnership appropriation.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

5. **Capital Outlay Support (COS) (May Finance Letter).** The Administration requests a net budget reduction of $26.1 million (various funds including Prop 1B bond funds), a reduction of 443 state staff resources (247 positions and 196 position-equivalents in overtime), and a reduction of 22 position-equivalents in contract-out resources. This request would result in a total COS budget of $1.8 billion and 12,666 full-time equivalents (FTE) in state and contract resources. Included in the request is one-time funding of $8.9 million for travel and insurance related to the construction of the new Bay Bridge (which is reimbursed funding from the Bay Area Toll Authority). Prop 1B workload is up, but overall workload is down due to a reduction in State Highway Operations and Protection Program (SHOPP) workload and a reduction in Partnership (locally-funded projects) workload.

   Background / Detail: Every year, there is significant discussion between the Administration and Legislature concerning the appropriate split of COS workload between state staff and contract resources. There is also debate over the relative cost of state staff versus contract resources. The numbers assumed by the administration in compiling the budget request are that state staff cost $121,000 (including all benefits and the standard cost of operating expenses and equipment) and contract out resources cost $217,000 per FTE. However, Caltrans argues that additional overhead is associated with state staff that might appropriately increase the cost of state staff above $121,000. For budgeting purposes, staff recommends the Subcommittee consider the cost of state staff at $121,000 and contract resources at $217,000 per full time equivalent – *the numbers used by the Administration in the budget request.* For comparison purposes, the following historical “Full Time Equivalent” chart was developed, with assistance from Caltrans.

Year	State Staff	Overtime	Contract Out	Total
1988-89	6,796	292	1,047	8,135
1989-90	7,072	310	937	8,319
1990-91	7,902	353	1,207	9,461
1991-92	8,789	379	1,305	10,474
1992-93	8,761	379	1,285	10,425
1993-94	8,696	305	855	9,856
1994-95	8,394	299	801	9,494
1995-96	7,782	298	803	8,883
1996-97	7,164	298	1,306	8,768
1997-98	7,538	351	1,176	9,065
1998-99	9,434	692	921	11,047
1999-00	9,854	546	592	10,992
2000-01	10,565	822	1,159	12,546
2001-02	11,072	650	1,646	13,368
2002-03	10,803	650	1,382	12,835
2003-04	10,245	303	500	11,048
2004-05	10,651	699	1,070	12,420
2005-06*	11,200	710	1,568	13,478
2006-07*	10,638	636	1,410	12,684
2007-08*	11,069	668	1,393	13,130
2008-09 Proposed	10,822	472	1,371	12,665
Long-run average %	**85%**	**4%**	**10%**	
2007-08 (at Budget Act)	**84%**	**5%**	**11%**	
2008-09 (Proposed)	**85%**	**4%**	**11%**	

* At the time of the Budget Act - excludes mid-year adjustments

LAO Comment: The Legislative Analyst believes that the COS budget request appears to be aligned with Caltrans' budget model for determining workload needs for project delivery. However, the LAO continues to analyze the request and may have additional comments at the hearing.

Staff Comment: By whatever measure is chosen, state staff are less expensive than contract-out staff. However, it is beneficial to maintain a certain level of contractor work to even out the peaks and valleys in workload across the state and in individual districts, and to prevent the need for layoffs when the workload drop is dramatic. Additionally, contract staff may be desirable where unique experience is needed for a specific project, such as the Bay Bridge replacement. As the table indicates, the Administration is requesting a slightly higher-than-average level of contract staff and a slightly lower-than-average level of state staff. Given the $96,000 cost difference between state staff and contract staff (based on how Caltrans budgeted the costs in this request), adjusting the budget back to the long-run average of 90 percent state resources and 10 percent contract resources (by shifting 105 contract FTEs back to state staff) would result in a savings of about $10 million.

Staff Recommendation. Shift 105 contract resources to state staff to achieve a savings of approximately $10 million (i.e. retain 105 more state positions and reduce 105 more contract positions). Direct staff to work with the Administration to primarily shift, as feasible, workload funded by the State Highway Account (SHA) and federal funds (instead of Prop 1B funds or other funds) – this will produce SHA savings that could be used for needed State Highway Operation Protection Program (SHOPP) projects.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

6. **Reduction to SHOPP Funding (May Finance Letter).** The Administration requests a reduction of $100 million to the State Highway Operations and Protection Program (SHOPP) because higher gas prices have decreased consumption, and gasoline excise-tax revenue are expected to fall by $225 million over 2007-08 and 2008-09 relative to the Governor's Budget estimates. This would reduce the SHOPP State Highway Account (SHA) appropriation from $848 million to $748 million. The Administration indicates that a buyers' market for construction has resulted in bids below estimates, so that the revenue loss is partially mitigated by falling project costs. Lower bids have resulted in savings of approximately $125 million in 2007-08 that the Administration can carry-over to 2008-09 – therefore, the requested reduction is only $100 million. The big-picture funding shortfall for the SHOPP program was discussed at the April 23 hearing. The annual SHOPP funding shortfall is estimated by the CTC at about $2.5 billion.

   Alternatives to the SHOPP Reduction. Given the dramatic existing shortfall in the SHOPP, and the condition of California's highways, a $100 million reduction should be avoided if at all possible. Staff discussed, with the Department, cuts in other Caltrans areas, but it should be noted Caltrans implemented a $50 million unallocated reduction three years ago that, in part, reduced administrative funding. Another area where cuts could be made is the Maintenance Program, but cuts to pavement maintenance or litter cleanup are also undesirable.

   <u>Use MVA funds:</u> In looking through the 2008 SHOPP project list, Staff noticed a $42 million project to construct a new commercial vehicle enforcement facility on Interstate 15 (I-15) near the Nevada boarder. The facility would be staffed and operated by the California Highway Patrol (CHP). While the SHA has traditionally funded commercial vehicle enforcement facilities located along highways, the Constitution designates the Motor Vehicle Account (MVA) for the enforcement of laws regulating the use and operation of vehicles used upon the public streets and highways – so the MVA could alternatively be used for this project. Staff also notes the CHP has significant vacancy and overtime savings in 2007-08 (about $46.6 million according to the CHP). This savings could be used to fund the I-15 project without impacting the *projected* MVA fund condition.

   <u>Score SHA Savings from Legislative Actions</u>: At the April 23 hearing, the Subcommittee reduced the proposed Caltrans expenditures by approximately $10 million (SHA). If the Subcommitee shifted some workload from contract to state staff in the prior issue, some additional SHA savings would result.

   Staff Comment: Given the severe SHOPP shortfall, the Subcommittee may want to consider appropriating $42 million from the MVA in the Caltrans budget for the I-15 enforcement facility. This would free up $42 million from the SHA for other SHOPP projects in 2008-09. As indicated above, CHP indicates savings in excess of this amount due to vacancies and reduced overtime. This action, in concert with legislative actions to reduce other SHA expenditures, would address most but not all of the $100 million revenue gap.

In the May Revision, the Administration proposed shifts of about $700 million in transit fund to General Fund Relief, and transit fund loans to the General Fund of about $238 million. Trailer bill language is also proposed to allow loans from the Pooled Money Investment Fund (PMIA), to transportation funds if needed for cashflow. Those proposals will be heard at a later hearing, but action in that area could effect SHOPP funding. For example, if the PMIA loan authority is approved, and the loan to the General Fund reduced, Caltrans may be able to reduce its SHA prudent reserve and direct the funding to SHOPP. Given this interact, staff recommends taking no action to reduce the SHA SHOPP appropriation at this time.

Staff Recommendation:

- Add a $42 million Motor Vehicle Account appropriation in the Caltrans budget for enforcement facilities in the SHOPP.
- Take no action on the May Revision Letter to reduce SHA SHOPP funding by $100 million.

Action: No action taken on issue.

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. The 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 $26.1 million ($5.0 million General Fund) and 183.6 positions – an increase of $2.4 million (a General Fund net decrease of $630,000) and an increase of 29.9 positions. Included in these numbers is a proposed cut of $540,000 to help close the General Fund deficit. The non-General Fund expenditures of the Board are supported by reimbursements for services provided to other State departments.

Issues Proposed for Discussion / Vote:

1. **Workload Related to Peace Officer Hiring (BCP #9, #10, and part of BCP #2).** The Board submitted three BCPs requesting $1.3 million (reimbursements) and 13.0 positions that are primarily driven by recent growth in the number of Officers at the California Department of Corrections and Rehabilitation (CDCR) and the California Highway Patrol (CHP). The SPB work is funded from reimbursements from the hiring departments, and if the workload is not at the predicted level or falls in the future, then the Board would not have sufficient resources to support all the positions and would have to leave some positions vacant. These BCPs do not increase any General Fund budgets, and rejection of these BCPs could slow the hiring of new CDCR Officers and CHP Officers. This issue was heard at the April 7 hearing, but held open pending more information on CDCR staffing. Since the Governor rescinded his CDCR early release proposal and the Medical Receiver is adding Peace Officer staffing, it seems likely that CDCR will have to continue at a high level of recruitment for at least the immediate future. The specific requests are as follows:
   - BCP #9 increases reimbursement authority by $368,000 and adds 4.0 positions (1.0 Psychologist and 3.0 clerical positions) to administer psychological screening of peace officer applicants. The base level of staffing is 11.0 positions.
   - BCP #10 increases reimbursement authority by $295,000 and adds 2.0 positions (1.0 medical officer and 1.0 clerical position) to respond to the increased fitness for duty evaluation workload. The base level of staffing is 2 positions. This workload is primarily related to peace officers, but a portion of workload is related to transportation workers and other classifications.
   - Part of BCP #2 increases reimbursement authority by $654,000 and adds 7.0 positions (5 Associate Personnel Analysts and 2 Appeals Assistants) to respond to a projected increase of psychological and medical withhold appeals. The base level of staffing is 10 positions.

Assembly Supplemental Report Language: The Assembly approved these requests and adopted Supplemental Report Language so the staffing can be revised next year if warranted. The placeholder Assembly language is as follows:

> ***Technical Training, Psychological Screening, and Medical Office Staffing****. On or before March 1, 2009, the State Personnel Board shall submit updated information on caseload, service requests, filled positions, and similar data concerning its Medical Office, Psychological Screening Unit, Psychological and Medical Withhold Appeals, and Technical Training Program. To the extent possible, this submission shall update key relevant data using formats similar to those included in Budget Change Proposals (BCPs) 2, 8, 9, and 10, which were submitted to the Legislature with the 2008-09 Governor's Budget on January 10, 2008. Should the administration submit one or more BCPs related to these programs to the Legislature in January 2009, the BCP or BCPs may be substituted for this report requirement for one or more of the programs listed above, provided that the submissions (1) include substantially all updated information described above and (2) are transmitted to all intended recipients of the information listed in this supplemental report*

Staff Comment: The State has added 360 new CHP officers and attempted to fill more vacant CDCR positions in recent years, and the cost to add or fill these positions has already been incorporated into those departments' budgets, but the SPB budget has not been similarly adjusted to reflect its related reimbursable activities. Additionally, when the hiring process takes six to nine months, some of the more qualified candidates may decide to pursue other job opportunities with employers that can place them faster into a job – this proposal would help address that by reducing SPB delays in screening applicants.

Staff Recommendation: Approve these requests, and adopt the placeholder Assembly report language.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

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 January Governor's Budget proposed expenditures of $106.6 million ($37.8 million General Fund) and 247 positions for DPA – an increase of $6.2 million and 21 positions. Two significant adjustments are a $1.9 million General Fund reduction (and position cut of 11.0 positions) to help address the General Fund deficit, and a $3.0 million General Fund augmentation (and the addition of 28.5 positions) to process layoffs that are part of the Governor's proposal (primarily in the Department of Corrections and Rehabilitation).

Issues Proposed for Vote Only:

1. **Projected State Layoffs / Position Reductions (BCP #6).** The Governor requests a two-year limited-term augmentation of $3.0 million (General Fund) and 28.5 positions to address layoff workload that would occur if the Governor's Budget is adopted as proposed. DPA estimates layoffs could number 7,200 out of the total State workforce of 235,000. The Administration notes that the "layoff" process may be more appropriately called a "position-reduction" process, since typically very few of the eliminated positions would result in somebody actually losing their state job. The majority of the layoffs in the Governor's January plan would come from the California Department of Corrections and Rehabilitation (CDCR) where 5,854 positions are proposed for elimination. However, since the Governor has rescinded his CDCR early release proposal and the Medical Receiver is adding Peace Officer staffing, the DPA staffing proposal is likely too high.

   Staff Comment: This issue should be taken to the Budget Conference Committee, so final staffing can be made to conform to the final budget. As a placeholder action, the Subcommittee may want to delete the new DPA positions related to CDCR – this would result in 28.5 new positions and $3.0 million requested falling to 10.0 positions and about $1.2 million.

   Staff Recommendation: Put this issue into the Budget Conference Committee to conform to the final budget – adopt a placeholder budget level that reduces new positions to 10.0 and reduces new funding to $1.2 million.

   Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

2. **General Fund Budget Reductions - Rural Health Care Equity Program (May Finance Letter).** In the January Budget, the Governor requested a reduction of $515,000 and approval of trailer bill language to reduce Rural Health Care Equity Program (Program) annual payments for "basic" annuitants from $500 to $450, and for "Medicare" annuitants from $900 to $810 – the Subcommittee approved this request at the April 7 hearing. The Program provides subsidies for current and retired State employees who reside in a rural area not served by a health maintenance organization (HMO). These employees still receive the same health benefits of other State employees and annuitants, but the supplemental payment in this program is intended to compensate them for the higher out-of-pocket costs they may incur because their area is not served by an HMO. The payment to current employees is built into collective bargaining contracts, so only the payments to annuitants are included in the reduction. In a May Finance Letter, the Governor requests to fully eliminate payments to annuitants for additional savings of $5.0 million General Fund.

   Background / Detail. About 7,600 annuitants participate in the program. The Program was implemented January 1, 2000, and originally had a sunset of January 1, 2005. The sunset has been extended and is currently January 1, 2012. The annuitant program is a supplemental non-vested program.

   LAO Comments: The LAO raises no concerns with the proposal given the state's fiscal situation. The LAO notes that the core health benefit contributions to these rural retirees will not be affected.

   Staff Recommendation: Approve the May Revision request, including placeholder trailer bill language.

Action: Approved Administration's request with placeholder trailer bill language on a 2 – 0 vote, with Senator Harman absent.

3. **Human Resources Modernization Project (May Finance Letter).** The Department of Personnel Administration (DPA) requests $2.9 million in special funds and other funds (no new General Funds) and 9.0 new permanent positions to continue the Human Resources Modernization Project (HR Modernization). The Administration also proposes to move base General Fund support of $2.7 million from the main item of appropriation to a new appropriation item that would fund only the HR Modernization Project. The Administration indicates that the plan adopted last year to borrow 70 positions (over the life of the project) from other state departments is made difficult by the 10-percent budget reduction at many state departments. Therefore, the Administration proposes to establish 9.0 new permanent positions at DPA to accelerate implementation.

   Background / Detail: Last year, the Legislature approved $2.7 million (General Fund), 5.0 new positions (ongoing), and 70 redirected/loaned positions, to begin development and design for the Human Resources (HR) Modernization Project. The Legislature added Supplemental Report Language (SRL) on the status of the project and the report was received April 23 (the due date was February 5). The HR Modernization plan discussed last year also included a new information technology project, although implementation of an IT project was not included in last year's budget request. DPA did submit a Feasibility Study Report (FSR) to the State Chief Information Office, but has since withdrawn the request to do some preliminary clean-up / elimination of classifications, and to defer the cost of the IT project given the difficult budget situation.

   DPA expects the following benefits upon implementation of HR Modernization: (1) an aggressive recruitment strategy that markets California as an "employer of choice;" (2) a streamlined and flexible recruitment, testing, and hiring process; (3) a simplified classification system based on competencies rather than duties; and (4) an improved performance management program. Part of the urgency is driven by an estimated 34 percent of the current workforce reaching retirement age in the next five years. In addition to the 9.0 new positions, the augmentation would support reimbursements to other participating departments and various operating and contract expenses. The Administration indicates the funding methodology is similar to that approved for the FI$CAL information technology project last year.

   LAO Comments: The LAO recommends approval of the May Letter with the addition of reporting language similar to that adopted last year. The LAO also raised concerns about the Administration's commitment to moving forward with a comprehensive IT solution to modernize the State's HR processes.

   Staff Recommendation: Approve the Finance Letter with the addition of the LAO Supplemental Report Language.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

1920 State Teachers' Retirement System

The State Teachers' Retirement System (STRS) administers retirement and health benefits for more than 800,000 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 (PERS), STRS members do not participate in the social security system. According to the most-recent actuarial analysis, STRS is about 87 percent funded for estimated long-term obligations (relative to a 86 percent funded level last year), leaving an unfunded liability of $19.6 billion. The LAO indicates that this funding level is above average among large public pension systems – with the average U.S. pension system about 85 percent funded.

<u>The State funds teachers' retirement based on two statutory formulas:</u>

- Benefits Funding – the State's contribution is statutorily based on 2.017 percent of the teachers' salaries. The 2008-09 cost is budgeted at $536 million General Fund.
- Supplemental Benefit Maintenance Account (SBMA) – the State's contribution is fixed by statute at 2.5 percent of teachers' salaries and is intended to provide retiree purchasing power protection. The 2008-09 payment as dictated by statute is $664 million. While the budget reflects this amount, there are two Administration proposals in the January Governor's Budget that produce a net-zero change in the SBMA payment: (1) the Administration is proposing statutory changes to vest purchasing power protection at 80 percent of initial retirement level (for a savings of $80 million); and (2) the Administration is proposing to pay $80 million in interest payments (out of about $210 million in interest due) from litigation the State lost related to a 2003-04 budget action. Both of these are further discussed below.

<u>The State lost its appeal on STRS SBMA lawsuit:</u>

In 2007, the State lost its appeal to a case brought by STRS over a 2003-04 budget action that reduced that year's SBMA payment by $500 million. In September 2007, the State paid the $500 million in principle to STRS. Interest due is about $210 million.

Issues proposed for Vote Only:

1. **Technical Budget Correction (April 1 Finance Letter).** The Administration requests a budget increase of $67.4 million (State Teachers' Retirement Fund) to align a "non-add" Budget Act item with expenditures for investment advisors in the Fund Condition Statement. This is a "non-add" because the Constitution grants CalSTRS authority over the administration of the retirement system, and funding is presented in the annual budget bill for informational purposes

   Staff Recommendation: Approve this technical Finance Letter.

Action: Approved request on a 2 – 0 vote, with Senator Harman absent.

Issues for Discussion and Vote:

2. **Purchasing-Power-Protection, Vesting, & Budget Savings (May Revision Finance Letter).** The January Governor's Budget proposed statutory change to reduce the Supplemental Benefit Maintenance Account (SBMA) State contribution from 2.5 percent of salary to 2.2 percent – for an annual estimated savings of about $80 million (reducing this contribution from $622 million to $547 million). Associated with this proposal was a new vested benefit that would guarantee purchasing power protection at the current 80-percent of initial retirement income. The Administration submitted a May Revision Letter that rescinds this proposal and proposes an alternative that is similar to a proposal offered by the California Retired Teachers' Association (CRTA). The revised proposal would reduce the State's contribution from 2.5 percent of salary to 2.25 percent - for annual savings of $66.4 million, but instead of creating a new vested benefit at 80-percent of purchasing power protection, it would instead increase the *unvested* benefit to 85 percent of purchasing power protection. Because the funding cut would be tied to an increased unvested benefit, the Administration argues this proposal is substantially different from the 2003-04 suspension that the State lost in litigation (see last page). As part of the proposal, the State would agree to repay interest related to the 2003-04 lawsuit over four years beginning in 2009-10 (with interest on the interest). Reducing the SBMA payment and deferring lawsuit interest payments would produce 2008-09 General Fund savings of over $275.0 million.

   April 7 Hearing: Three SBMA proposals were discussed at the April 7 hearing: (1) the Governor's January proposal (reduce contributions to 2.2 percent of payroll, and add new vesting at 80 percent of purchasing power protection); (2) the CalSTRS proposal (reduce contributions to 2.2 percent of payroll, and add new vesting at 82.5 percent of purchasing power protection); and (3) the CRTA proposal (reduce contributions to 2.25 percent of payroll and increase *unvested* purchasing power protection to 85 percent). The fiscal risks related to high inflation were discussed for all three proposals. The January Governor's proposal and the CalSTRS proposal generally carried the highest fiscal risks to the state, because the State would be responsible for maintaining the newly vested purchasing power protection no matter what the cost. The CRTA proposal presents less risk to the state, because the new 85 percent benefit would not be vested. If inflation exceeded expectations, the state would be required to continue the 2.25 percent of payroll contributions, but if that proved insufficient, and Schools did not backfill the loss, retired teachers would see their purchasing power protection fall back down below 85 percent.

   Background / Detail: The May Revision Proposal has several components, which are considered part of an overall package which provides a comparable or superior benefit to the current benefit (because the existing 2.5 percent contribution is vested, the alternative must be comparable or superior to be legally viable). The components of the proposal are as follows:

May Revision Proposal:

- Reduces vesting from 2.5 percent of payroll to 2.25 percent of payroll in exchange for a statutory, but non-vested, increase in the purchasing power protection level to 85 percent of initial retirement income (annual savings of $66.4 million General Fund).
- Amends statute to specify annual state payments to CalSTRS for SBMA in equal November and April transfers (full payment is currently made in July each year – these new payment dates would assist General Fund cashflow).
- Delays interest payments on the 2003-04 lawsuit beyond 2008-09. Payment of the $210 million due would be spread over four equal payments of $52.6 million beginning in 2009-10. (This produces 2008-09 General Fund savings of $210 million relative to full repayment and General Fund savings of $79.7 million relative to the January Budget.)

LAO Comment: The Legislative Analyst indicates that the Administration's plan is a reasonable attempt to increase benefits for some of CalSTRS' older retirees, contain state costs, and meet court-ordered obligations of the state, while at the same time avoiding increases in the state's unfunded pension liabilities. To help bolster the legal viability of the proposed CalSTRS package from the administration, the LAO recommends two relatively minor additions to the package with no anticipated budget-year impact and only small budget impact in future years.

- First, if the Legislature approves the administration's proposal, the LAO recommends that it approve trailer bill language expressing its intent to appropriate moneys up to the amount of $3 million in 2009-10 in order to provide additional funds to CalSTRS and hold the system harmless for its underreporting of Los Angeles Unified School District (LAUSD) teacher payroll in prior years.
- Second, if the Legislature approves the Administration's proposal, the LAO recommends that it approve trailer bill language to extend the amount of time that CalSTRS has to report prior-year teacher payroll to Finance and the Legislature each year. Currently, the law refers only to CalSTRS reporting this payroll amount each October. In some recent years, CalSTRS has wished to make subsequent adjustments to its October report, but the law arguably has not allowed them to do this.

Staff Comment: Staff understands that the Administration supports the minor additions recommended by the LAO. This proposal saves the General Fund $276 million in 2008-09 by deferring the lawsuit interest payments ($210 million) and reducing the annual SMBA contribution ($66 million).

Staff Recommendation: Approve the May Letter with LAO adjustments and adopt as placeholder the Administration's trailer bill language.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

0860 Board of Equalization

The Board of Equalization (BOE) administers the sales and use tax programs, administers a variety of business and excise taxes and fees, and oversees the administration of the property tax by county assessors.

The Governor proposes expenditures of $430 million ($242 million General Fund) and 4,035 positions for BOE – an increase of $33 million ($20 million General Fund) and an increase of 235 positions. The new positions are primarily associated with activities that will decrease the "tax gap," which is the $2.0 billion annual difference between BOE taxes owed and taxes collected. The Board estimates the requested tax-gap positions will increase General Fund revenues by over $32 million in 2008-09.

Issues Proposed for Consent / Vote-Only

1. **Tax Gap / Revenue Request (BCP #2).** In the January Budget, the Administration requested an augmentation of $13.9 million ($9.0 million General Fund), and 136.5 new positions to support expanded efforts to narrow the tax gap and therefore collect more tax that is owed but not paid. The LAO raised concerns with some of the low revenue-to-cost ratios (specifically the LAO identified $9.4 million in new expenditures that only provided $15.4 million in new revenue in 2008-09 for a revenue-to-cost ratio of 1.6:1). The Subcommittee adopted the LAO's recommendation to reject certain components (all new Collectors and Auditors were rejected, and other components were reduced). However, the BOE has re-run the number using 2006-07 data instead of 2005-06 data and the revenue-to-cost ratios are up significantly. The BOE indicates that the 2006-07 period incorporates enhancements in staff training and improved collection and audit methodologies, which will be ongoing and are appropriate to use for the tax gap estimates.

   Revised BOE Estimates: The proposal with revised revenue estimates is as follows: the BOE estimates this proposal would result in additional revenues of ~~$32.3~~ $43.0 million ~~($20.3~~ $27.7 million General Fund) in 2008-09 and ~~$60.9~~ $84.5 million (~~$38.4~~ $53.2 million General Fund) in 2009-10. This request includes five individual tax gap initiatives:
   - Bankruptcy / Out-of-State Collections – 5.0 positions and $545,000 ($354,000 General Fund) are requested to contract with FTB for bankruptcy data for out-of-state taxpayers, and additional BOE staff to speed the filing of tax liens and improve the State's lien priority for bankruptcy liquidation (~~$4.2~~ $3.7 million ~~[$2.6~~ $2.3 million General Fund] revenue gain in 2008-09 and ~~$4.2~~ $ 4.3 million ~~[$2.6~~ $ 2.7 million General Fund] revenue gain in 2009-10).
   - In-State Service Businesses – 51.5 positions and $4.7 million ($3.1 million General Fund) are requested to increase compliance of use tax payment by service businesses inside the state that purchase goods outside the state (~~$13.6~~ $14.3 million [~~$8.6~~ $9.0 million General Fund] revenue gain in 2008-09 and ~~$26.4~~ $28.3 million [~~$16.6~~ $17.8 million General Fund] in 2009-10).

- Collection Improvements – 14 positions and $1.3 million ($861,000 General Fund) are requested to increase audit activity (~~$2.9~~ $4.6 million [~~$1.8~~ $2.9 million General Fund] revenue gain in 2008-09 and ~~$5.8~~ $9.5 million [~~$3.6~~ $6.0 million General Fund] in 2009-10).
- Audit Improvements – 63.0 positions and $7.0 million ($4.6 million General Fund) are requested to increase collection activity (~~$11.6~~ $20.4 million [~~$7.3~~ $12.9 million General Fund] revenue gain in 2008-09 and ~~$24.6~~ $42.4 million [~~$15.5~~ $26.7 million General Fund] in 2009-10).
- Non-Filers and Tax Evadors Discovery Research – 3.0 positions (3-year limited-term) and $351,000 requested for research and survey work to develop procedures and leads to investigate, to narrow the tax gap for (1) internet sellers, (2) itinerant vendors, and (3) cash-based businesses. No revenue is scored for this effort, but BOE hopes this discovery research would result in future tax gap initiatives.

Revised LAO Recommendation: The LAO had originally recommended rejection of several components of this request. However, with the new revenue estimates from BOE, the LAO has modified their recommendations to approve all components of this request except the Non-Filers and Tax Evadors Discovery Research – for that component the LAO recommends only approving 1.0 position to narrow the tax gap for internet sellers.

Staff Comment: Given the new BOE estimates that increase the revenue benefit associated with this proposal and the worsening General Fund situation, the Subcommittee may want to reopen this issue. A primary reason for the rejection at the first hearing was the low benefit to cost ratios (some in the range of 1.6:1). With the updated revenue data, the benefit to cost ratios are generally 3:1 or above in 2008-09, and then increase to 4:1 or better in 2009-10. These ratios are more consistent with the past criteria for adding positions.

Staff Recommendation:
- Approve the budget request, except approve only one new position for Discovery Research (for internet sellers) as recommended by the LAO. This action would result in a *net* General Fund benefit of $18 million 2008-09, and $44 million in 2009-10.
- Direct Finance to score the additional revenue associated with the new BOE estimates - about $7.2 million more in General Fund in 2008-09 than the January Governor's Budget.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers the personal income tax (PIT) program and the corporation tax (CT) programs. The FTB also administers the Homeowners' and Renters' Assistance Programs.

The January Governor's Budget proposed expenditures of $650 million ($554 million General Fund) and 5,348 positions for FTB – a decrease of $45 million (but a General Fund increase of $19 million) and an increase of 182.5 positions. The new positions are primarily associated with activities that will decrease the "tax gap," which is the $6.5 billion annual difference between taxes owed and taxes collected. The Subcommittee heard FTB issues on April 7 and May 8, and adopted several tax gap proposals that should increase General Fund revenues in 2008-09 by approximately $130 million. A new tax gap proposal was submitted with the May Revision.

Issues proposed for Discussion / Vote:

1. **Tax Gap – Filing Enforcement Manual Workload (May Finance Letter).** The Administration requests $1.1 million (General Fund) and 16.2 new positions to augment the Filing Enforcement Program and contact an additional 60,000 non-filers. This proposal is expected to generate additional General Fund revenues of $9.0 million in 2008-09 and $28 million in 2009-10.

   Staff Recommendation: Approve this request.

   Action: Approved request on a 3 – 0 vote.

2. **Limited Liability Corporation – Fee Payment Acceleration (May Finance Letter).** The Administration requests statutory change to accelerate the payment of Limited Liability Corporation (LLC) fees to produce a General Fund revenue gain of $360 million in 2008-09. The revenue gain would be primarily one-time, but ongoing revenue annual gains of about $35 million would result as the tax base grows. The proposal would accelerate the fee payment due date from April 15 of the following tax year to June 15 within that tax year (an acceleration of 10 months). The late-payment penalty would also be increased from 5 percent per month of the fee to 50-percent of the fee; however, no penalty revenue is scored with this proposal.

   Background / Detail: Current law imposes LLC fees ranging from $900 (for income between $250,000 and $500,000) to $11,790 for incomes over $5.0 million. The Administration's draft language is similar to that of AB 1546 (Calderon). The analysis for AB 1546 indicates that this change would treat LLC fee taxpayers like most other tax filers, such as C Corporations and personal income taxpayers that must generally pay their tax liabilities within that same tax year.

   Staff Comment: This Governor's proposal will accelerate, but not increase LLC fees. It would contribute $360 million to the 2008-09 General Fund solution.

   Staff Recommendation: Approve this request including *placeholder* trailer bill language.

Action: No action taken.

Ready Returns Program: Approved Supplemental Report Language requiring FTB to report: (1) cost of the program; (2) number of taxpayers participating; (3) other alternatives; and (4) number of FTB employees working in support of the program .

8885 Commission on State Mandates

The Commission on State Mandates (Commission) is responsible for determining whether a new statute, executive order, or regulation contains a reimbursable State mandate on local governments and determining the appropriate reimbursement to local governments from a mandate claim. This budget item appropriates the funding for the staff and operations cost of the Commission, and appropriates non-Proposition-98 mandate payments to local governments.

The January Governor's Budget proposed expenditures of $142.6 million ($140.7 million General Fund) and 12.0 positions (a decrease of 1.0 position). The Budget also reflects the proposal, which was adopted in the Special Session, to discontinue the practice of paying *estimated* claims, and only pay claims once the full-year's cost has been incurred and filed with the State. This action reduced General Fund costs by $75 million in 2008-09 by shifting payment of 2007-08 claims to 2009-10. Post Proposition 1A, the State is required to pay ongoing mandate claims and the budget includes $64.0 million General Fund for this purpose. Proposition 1A also requires the repayment of all pre-July 1, 2004, mandate claims over an unspecified number of years. The budget includes $75 million (General Fund) to pay a portion of the $900 million in outstanding pre-July 1, 2004 mandate claims.

Issues Proposed for Discussion and Vote:

1. **Defer Payment of Pre-July 2004 Mandate Claims (May Finance Letter).** In a May Finance Letter, the Administration requests to defer payment of $75 million (General Fund) from 2008-09 to 2009-10 for the annual payment of pre-July 1, 2004 mandate claims. Full payment of these old claims is statutorily required by fiscal year 2020-21. The Administration indicates this deferral is allowable under the Constitution and would result in 2008-09 General Fund savings of $75 million.

   Alternative or Supplemental Reduction (LAO Overview): Both the Administration and the LAO indicate that the $64 million (General Fund) currently budgeted for *ongoing* mandate costs (separate from the Pre-July 2004 costs), is over-budgeted by about $27 million due to new analysis from the Commission (actual costs are lower that budgeted). Additionally, the LAO notes there are $25.5 million in funds budgeted for two "new" mandates that will not go before the Commission until June. As such, their costs are: (a) not due yet; and (b) they have not yet been reviewed by the LAO. Therefore, a budget reduction of approximately $53 million would seem an appropriate "update" to tie to current cost assumptions.

   Staff Recommendation:
   - Reject the deferral of $75 million in *old* mandate claims.
   - Reduce funding for *ongoing* mandate claims by approximately $53 million, to conform to the new cost assumptions.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

9100 Tax Relief

The 9100 budget item includes several programs that provide property tax relief by: (1) making payments to individuals to partially offset their property tax payment (or rent in the case of renter), and (2) making payments to local governments to help defray revenues lost as a result of tax relief programs. There are five tax relief programs in this item, and the funding amount indicated is the amount budgeted (all General Fund) prior to proposed budget reductions:

- Senior Citizens' Property Tax Assistance ($40.6 million)
- Senior Citizens' Property Tax Deferral Program ($25.8 million)
- Senior Citizen Renters' Tax Assistance Program ($150.3 million)
- Homeowners' Property Tax Relief ($442.5 million)
- Subventions for Open Space / Williamson Act ($38.6 million)

The Homeowners' Property Tax Relief program is constitutionally required, and therefore it is excluded from the 10-percent cut proposals. The Governor proposes that the remaining four programs each receive a 10-percent budget cut to save $25.5 million (General Fund). The proposed cuts to homeowners/renters programs are outlined in issue #1, and the proposed cuts to the Williamson Act program is discussed in issue #2.

Issues Proposed for Discussion:

1. **Homeowners/Renters Programs (Governor's Budget).** The Administration requests a 10-percent budget reduction ($21.6 million) to the three homeowners/renters tax relief programs. The reductions are proposed as proportional cuts, so each recipient would see their payment fall by 10 percent.

   Background / Detail: The three programs included in this issue are as follows:
   - Senior Citizens' Property Tax Assistance – provides income-based payments to homeowners with household incomes below $42,770 who are over 62, disabled, or blind. The maximum annual grant is currently $473. The proposed 10-percent would result in General Fund savings of $4.1 million.
   - Senior Citizens' Property Tax Deferral Program – allows homeowners with annual household incomes below $35,500, and who are at least 62 years old, blind, or disabled, to postpone their property tax payments. The state makes the property tax payments on the homeowners' behalf, and is reimbursed when the home is sold, or the qualifying occupants cease their residency. The proposed 10-percent would result in General Fund savings of $2.6 million.
   - Senior Citizen Renters' Tax Assistance Program - provides income-based payments to renters with household incomes below $42,770 who are over 62, disabled, or blind. The maximum annual grant is currently $348. The proposed 10-percent would result in General Fund savings of $15.0 million.

   LAO Comment / Alternative: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends rejection of the Governor's 10-percent across-the-board approach and instead recommends an alternative that results in similar budget savings, but shifts the impacts away from the lowest-income taxpayers. To illustrate their criticism of the Governor's proposal, the LAO indicates that under the Administration plan the average homeowner with an income of $40,000 would see his or her payment reduced by $2, but a renter with an income of $10,000 would have his or her payment reduced by $35. The LAO recommends that the Renters' Program and Property Tax Deferral Programs be left whole, and instead the Property Tax Assistance program income limits be rolled back from $42,800 to $33,000. This would result in savings of $18.5 million (versus the $21.6 million in the Governor's Proposal).

Staff Comment: If the Legislature determines that cuts in this area of the magnitude of $20 million are necessary, the LAO's approach appears to be preferable to the Administration's.

Staff Recommendation: Adopt the LAO alternative.

Action: Approved LAO Alternative on a 2 – 0 vote, with Senator Harman absent.

2. **Subventions for Open Space / Williamson Act (Governor's Budget).** The Administration requests a 10-percent budget reduction ($3.9 million) to Williamson Act grants. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property owners pay reduced property taxes because the land is assessed at the lower-than-maximum level. The State then *partially* compensates the local governments for their related property tax loss. The Administration reduction proposal would lower payments to cities and counties, but would not restrict new Williamson Act contracts between property owners and local governments.

LAO Comment / Alternative: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends approval of the 10 percent reduction proposed by the Governor, but also that the program be phased out by not allowing any new contracts. Budget savings would increase annually as contracts expire until the program is fully phased out in 10 years. The LAO indicates that the Williamson Act is not a cost-effective land conservation program because in many cases it subsidizes landowners for behavior they would have taken regardless.

Staff Comment: Given the severe General Fund situation, additional cuts to the Williamson Act may be necessary. The Subcommittee may want to reduce funding to $1,000 to put the issue into Conference Committee for further review.

Staff Recommendation: Reduce funding to $1,000 to place the issue into Conference Committee.

Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

9210 Local Government Financing

The 9210 budget item includes a variety of State General Fund subventions to local governments for general or specific activities. Some of the larger subventions are listed below, and the funding amount indicated is the amount budgeted (all General Fund) prior to proposed budget reductions:

- Small and Rural Sheriffs Grant Program ($18.5 million)
- Citizens' Option for Public Safety / Juvenile Justice Crime Prevention ($238 million)
- Booking Fees ($35 million)
- Disaster Property Tax Relief ($877,000)
- Redevelopment Agency Special Subventions ($800,000)

The Governor proposes a 10-percent budget cut to all of these programs to save $29.4 million (General Fund), and reduce spending in this budget item from $293.2 million to $263.7 million. The proposed cuts to the law-enforcement / juvenile justice programs were previously acted upon at the May 8 hearing.

Issues Proposed for Discussion:

1. **Disaster Property Tax Relief (Governor's Budget).** This budget item funds tax relief to homeowners and local governments impacted by specified natural disasters. For example, SB 38 (Ch 22, St of 2007) provide specified property tax relief to individuals and local governments for property damage caused by wildfires in Riverside County. The Governor proposes a 10-percent reduction in this item for savings of $88,000.

   Staff Comment: The Administration indicates that this reduction would not impact any property owners or local governments, because they would still be entitled to related benefits even in excess of the appropriated amount. In recent years a significant amount of the budget Act appropriation for similar legislation has been unclaimed and reverted to the General Fund as savings. So this proposed reduction does not really cut a program, it just scores an anticipated savings that would revert on its own if realized.

   Staff Recommendation: Approve the Administration's request.

   Action: Approved request on a 2 – 0 vote, with Senator Harman absent.

2. **Redevelopment Agency Special Subventions (Governor's Budget).** This budget item funds State subventions to Redevelopment Agencies (RDAs) to backfill revenues they lost in the 1980s. These redevelopment subventions were instituted after the State eliminated personal property tax supplemental subventions to redevelopment agencies. The current subventions were intended to ensure that redevelopment agencies would not default on bonds that had been backed with personal property tax subvention revenue. The funds are only provided to RDAs that were in existence when the tax was eliminated, and only is provided to those RDAs that need the funds to cover bond indebtedness costs. The Governor proposes a 10-percent reduction in this item for savings of $100,000 (reducing the budget from $800,000 to $700,000).

   Staff Comment: This subvention was instituted about 20 years ago and since then property tax revenues has grown significantly and Proposition 1A was approved to better define State and local revenue. The Department of Finance indicates the base funding of $800,000 ties to actual expenditures in 2002-03. The Controller indicates that actual expenditures in 2006-07 were only $547,000 and only four RDA qualified. The Controller indicates that only one RDA qualified for the payment in the first half of 2007-08 ($265,000 to Huntington Park), but that that could change with the second payment for 2007-08. It should be noted that the budget bill language allows the Director of Finance to authorize expenditures in excess of the amount appropriated in this item, to the extent necessary to fund all allocations and with 30 day notification to the Legislature. It should also be noted that the budget bill appropriation is an in lieu appropriation for more liberal statutory language that does not limit expenditures strictly to that needed for debt payment after other revenues are examined. Given that the actual 2006-07 payment was only $547,000, and since then it appears the number of qualifying RDAs has fallen from four to one, it may be reasonable to drop the appropriation to $500,000. This would result in additional budgeted General Fund savings of $200,000, and as indicated, budget bill language allows the Finance Director to augment the item if necessary.

   Staff Recommendation: Reduce funding to $500,000 based on the 2006-07 actual cost and staff analysis of the Controller's data for the first half of 2007-08.

   Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

9350 Shared Revenues

The 9350 budget item apportions special monies collected by the State to local governments on the basis of statutory formulas. Of the amounts displayed in this budget item, $12.3 million is General Fund and $2.1 billion is special funds and federal funds. As indicated, the apportionments are generally statutory, and this year, there is no budget bill appropriation for this budget. However, the Administration proposes trailer bill language to implement 10-percent budget reductions for the two General Fund apportionments.

Issues Proposed for Discussion:

1. **Trailer Vehicle License Fee (Governor's Budget).** This budget item apportions revenue to cities and counties that lost Vehicle License Fee (VLF) revenue when the State converted from an un-laden weight system to a gross vehicle weight system for purposes of assessing VLF for commercial vehicles. This change conforms to the International Registration Plan, a reciprocity agreement among US states and Canada for payment of commercial license fees based on distance operated in each jurisdiction. This funding is deposited in the Local Revenue Fund to support local health and welfare programs. This is associated with a state/local healthcare realignment implemented in 1991. The Governor proposes a $1.2 million cut (10 percent) to this $11.9 million backfill apportionment. This apportionment was instituted before, and is separate from, the VLF Swap that shifted property tax to cities and counties to backfill for the VLF rate reduction.

   Staff Alternative: Since current law backfills lost trailer VLF with General Fund, it should be feasible to instead backfill trailer VLF with base VLF revenue. Specifically, $11.9 million in VLF funds currently expended by the Department of Motor Vehicles (DMV) could be shifted to pay this apportionment that supports health and welfare programs. The Motor Vehicle Account or other DMV funds could be adjusted to keep DMV's budget whole. This alternative would produce $10.7 million more in General Fund savings and maintain this realignment funding at the current-law level.

   Staff Recommendation: Adopt the staff alternative to use VLF instead of General Fund for this subvention, producing *additional* General Fund savings of $10.7 million (*total* General Fund savings of $11.9 million).

   Action: No action taken.

2. **Tideland Oil Revenue (Governor's Budget).** This budget item apportions 1 percent of revenue received by the State from leases of publicly owned coastal waters for oil extraction, to local governments in whose jurisdiction the extractions are occurring. Statute requires that the amounts paid to cities and counties shall be deposited in a special tide and submerged lands fund to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of lands within the boundaries of the cities and counties, for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastlines, and the mitigation of any adverse environmental impact caused by exploration for hydrocarbons. The Governor proposes a $46,000 cut (10 percent) to this $462,000 apportionment.

   Staff Comment: This apportionment provides compensation to local communities that may be impacted from State leases of offshore waters for oil extraction. However, given the severe General Fund situation, the Subcommittee may want to eliminate this discretionary revenue sharing with local governments – this would result in General Fund savings of $416,000 beyond the Governor's proposal.

   Staff Recommendation: Eliminate this apportionment for total General Fund savings of $462,000.

   Action: Approved Staff Recommendation on a 2 – 0 vote, with Senator Harman absent.

Attachment A – Proposition 1B Intercity Rail

Proposed BBL for items 2660-104-6059, 2660-304-6059, and 2660-492:

Provision (X) The Legislature finds and declares all of the following:

(a) Funds made available by this item for capital improvements to the state's intercity rail program, including the purchase of new rolling stock, are necessary to implement a specific provision of the *Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006*, as that act was approved by the voters of the state of California.

(b) From that Act, paragraph (2) of subdivision (f) of Section 8879.23 of the Government Code makes funds available, upon appropriation of the Legislature, for intercity rail improvements "including the procurement of additional intercity railcars and locomotives."

(c) It is the intent of the Legislature that funds appropriated for this purpose be spent prudently and expeditiously to enhance the state's intercity rail service.

(d) It is further the intent of the Legislature that during the 2008-09 Fiscal Year, and no later than June 30, 2009, the Department of Transportation shall release a Request for Proposal for the procurement of rolling stock equipment as provided for in paragraph (2) of subdivision (f) of Section 8879.23 of the Government Code.

(e) No later than January 1, 2009, the department shall provide a report to the Joint Legislative Budget Committee, describing the activities it has undertaken to allocate the funds made available to it in this item.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom Harman
Christine Kehoe

Hearing Outcomes

Agenda – Part A

Wednesday, June 4, 2008
9:30 a.m.
John L. Burton Hearing Room (4203)

Consultants: Daniel Alvarez, Bryan Ehlers, Brian Annis

May Revision and Open Issues

Action: Staff Recommendation for Item 2740 approved on a 2-1 vote with Senator Harman voting no. Staff Recommendations for the remainder of Vote-Only items approved on a 3-0 vote.

Action: Staff Recommendation for Items 2640 and 2660 approved on a 2-1 vote with Senator Harman voting no.

Department Budgets Proposed for Consent / Vote Only

(a consolidated vote-only recommendation is on page 12)

1. **0110 and 0120 Support for the Legislature – Senate and Assembly**
   Budget Adjustments. Under the terms of Proposition 140, the growth in the Legislature's budget is constitutionally limited to the growth in the state's appropriation limit (SAL). However, the Legislature recognizes the necessity for making reductions. According to the DOF, the year-to-year SAL increase is calculated to be 4.95 percent.

   Staff Recommendation: Adjust year-to-year SAL growth to 3.5 percent for both the Senate and Assembly budgets – this equates to a year-to-year reduction of $1.6 million and $2.1 million respectively -- when compared to the 4.95 percent growth limit prescribed by the State Constitution. It is important to note that under the terms of Proposition 140, this would be a *permanent* reduction that cannot be restored in future years. Staff will provide the appropriate schedule changes for purposes of reconciliation. This recommendation conforms to action taken by the Assembly.

   Action: Staff Recommendation approved on a 3-0 vote.

2. **0160 Legislative Counsel Bureau**
   Budget Adjustments. A May Revision letter requests a technical correction to the Legislative Counsel Bureau's level budget balancing reduction to remove unachievable or impractical reductions. This results in reduced General Fund savings of approximately $7 million in the LCB budget.

   Staff Recommendation: Approve this portion of the May Revision Letter.

   Action: Staff Recommendation approved on a 3-0 vote.

3. **Central Service Agencies (CSA) corrections - Various Budget Bill Items**
   The May Revision proposes to correct the problem of disproportionate budget reductions to agencies that provide central services, by not overstating the General Fund base of these CSAs.

   Currently, these departments and entities receive GF appropriations to provide central services to all departments regardless of their fund sources. Traditionally, for efficiency and ease of central cost allocation and recovery purposes, recovery of costs from non-GF departments for their services is not reflected in these entities. This recovery method resulted in the GF base in these agencies being incorrectly inflated. Without making a correction to their GF base, these entities will need to take more than a 10-percent reduction to their true GF base to achieve the amount of reductions proposed by the governor's budget.

   Staff Recommendation: Approve the May Revision letter changes (exclude the Legislature from this proposal, since prior action has been taken), but reject the trailer bill language. It is the intent of the Senate that the proposed trailer bill language be sent to conference committee for refinement.

   Action: Staff Recommendation approved on a 3-0 vote.

4. New Control Section 35.80 -- Cash Flow Management

Given the uneven flow of revenues to the state during any given year, the state engages in short-term borrowing with revenue anticipation notes (RANs) to meet expenditures. RANs can only be issued when there is an approved Budget.

The May Revision proposes implementing a state cash management improvement program by smoothing out General Fund disbursements throughout the fiscal year to better match timing of General Fund receipts. The administration proposes a new Control Section that provides them (1) the ability, on an annual basis, to defer payments made to any state funded programs with the deferred payment month being within the same fiscal year as the original payment month, (2) provide 30-day notification to the Joint Legislative Budget Committee on the amount of the deferral, (3) specifies that deferral for specific programs may be done if notification is given within two weeks of the May Revision, and (4) permits the DOF to exempt any entity from payment deferral if a hardship case can be made.

The proposal's intended benefit is to reduce the amount of external RAN borrowing by approximately $3.5 billion – and therefore provide GF savings from reduced interest payments on the loan amount (in this instance, the DOF estimates approximately $55 million). The DOF still assumes a RAN of approximately $10 billion will be needed, even if this proposal were adopted.

The program areas mainly affected by the May Revision proposal include: K-12 categorical programs ($2.5 billion), University of California ($600 million), California Community Colleges ($245 million), child care and development programs ($147.5 million), Citizens Options for Public Safety/Juvenile Justice ($214 million), Williamson Act ($34.7 million).

Staff Recommendation: Adopt placeholder control section language which in principle keeps the idea of smoothing out payments on the table. However, do not adopt the proposed administration language. In addition, DOF should begin to look at other borrowable resources as a possible alternative to programs mentioned above.

Action: Staff Recommendation approved on a 3-0 vote.

5. 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 begins by funding 505.0 positions (a net increase of 7.0 positions over adjusted current year totals) and budget expenditures of $125.6 million (including $35.0 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction of approximately $3.5 million.

May Revise Letter: Early Presidential Primary Costs Incurred by Counties (with provisional language). The Secretary of State (SOS) requests $89.6 million in General Fund (GF) local assistance to pay for costs incurred by counties for the Presidential Primary election held in February 2008 pursuant to Chapter 2, Statutes of 2007 (SB 113).

Staff Comments: This item was heard on May 21, and held open to allow additional discussions between legislative staff, the counties, and the Administration regarding the validity of election costs claimed by the counties. In subsequent conversations, the parties developed a consensus understanding that the state needed more detailed county cost information in order to ensure that only valid costs were reimbursed. For example, legislative staff noted concern that some counties might be billing for equipment or legal costs that would be more appropriately paid out of federal funds or the counties' own pockets. As previously noted, the data originally provided to the Legislature was insufficient to determine the source of the claimed costs.

In order to address the Legislatures' concerns, the counties agreed to report additional cost detail—including salaries, various service and supply costs, and postage (see Attachment 1 for more details). As indicated in the staff recommendation (below), the Legislature could appropriate an amount consistent with the estimated costs reported by the counties and then require the State Controller's Office (SCO) to conduct an audit of the costs to determine whether or not the costs were valid based on criteria identified by the Legislature. Because the $89.6 million requested was based on a preliminary estimate from the counties, the Subcommittee may wish to send this issue to Conference Committee in order to allow the counties additional time to collect more up-to-date cost data.

Staff Recommendation: APPROVE placeholder TBL requiring the SCO to audit the counties' costs. Additionally, APPROVE $89.6 million GF, and placeholder provisional language to schedule the maximum payment due to each county. By non-conforming to the Assembly, this action would send the item to Conference Committee and allow additional time to refine the county cost estimates as well as the methodology for paying the costs.

Action: Staff Recommendation approved on a 3-0 vote.

6. 9210 Local Government Financing

The 9210 budget item includes a variety of State General Fund subventions to local governments for general or specific activities.

Redevelopment Agencies – Compliance with Pass-Through Requirements (LAO Issue). The LAO recommends budget action to recover State overpayment to school districts in the past five years that have resulted from inaccurate accounting and reporting practices by Redevelopment Agencies (RDAs) and school districts – General Fund savings of $98 million in 2008-09 would result. A recent audit by the State Controller's Office found that, contrary to the requirements of law, some redevelopment agencies (RDAs) are not making pass-through payments to K-14 districts and some K-14 districts are not properly reporting their pass-through payments to the state. The understatement of K-14 property tax revenues has resulted in additional state General Fund costs to meet the funding requirements of Proposition 98 and school revenue limits. The LAO estimates that these changes would reduce state education costs by about $98 million in 2008-09 and by somewhat lower amounts annually thereafter. These changes also would benefit K-14 districts and other local entities by ensuring that they receive pass-through revenues to which they are entitled under state law.

Detail / Background: Under current law, if a community finds that it has an urban area with serious physical and economic blight, it may create a redevelopment project area. Once a project area is established, the county auditor annually allocates all growth in property taxes due to increases in assessed value within the project area (known as tax increment revenue) to the community's redevelopment agency. Accordingly, tax increment revenues are property tax revenues that are diverted from schools and local governments to RDAs in order to finance redevelopment. In 2008-09, LAO estimates that California RDAs will receive about $4.9 billion of tax increment revenue, about 11 percent of total property taxes.

<u>RDA Pass-Through Requirements</u>***.*** Under State law, redevelopment agencies must return a portion of their tax increment revenues to other local agencies as "pass-through" payments.

<u>A Portion of the Pass-Through Must Be Reported as K-14 Property Tax Revenue</u>***.*** Any school district or community college district that receives pass-through payments from a redevelopment project created after enactment of the Community Redevelopment Law Reform Act of 1993 ("AB 1290") or amended pursuant to SB 211 must report a portion of these payment as an offset to state apportionments. For K-12 districts, the portion of their pass-through payment that offsets state apportionments is 43.3 percent. For community college districts, the portion is 47.5 percent. In essence, the state allows K-14 districts to retain more than half of these pass-through tax increment revenues as a supplement to their normal funding, with the state General Fund making up the difference through school apportionments and Proposition 98 funding.

LAO Recommendations: The LAO makes the following recommendations to correct the past payment and reporting errors for RDA pass-throughs and to improve ongoing compliance:

Five Year RDA Recapture Provision (About $50 million in 2008-09). LAO recommends enactment of budget trailer bill legislation directing RDAs and county auditors to jointly calculate (for each project area created after AB 1290 or amended pursuant to SB 211) the amount of pass-through payments that the RDA (1) should have provided and (2) actually made to each local agency over the last five years. The RDAs and county auditors will submit this report to the Legislature, State Controller, Department of Finance, and all affected local agencies by September 15, 2008 and shall provide an updated report by March 15, 2009, and every six months thereafter as long as there are any outstanding pass-through liabilities for this period. If the September 15, 2008 pass-through report indicates that an RDA has an outstanding pass-through payment obligation, it would be required to pay those amounts to each local agency by November 1, 2008.

Enforcement Mechanisms. In order to ensure compliance with the recapture provision, the LAO proposes including several enforcement provisions in the trailer bill legislation. Until an RDA's past pass-through obligations (if any) have been satisfied (as confirmed by the county auditor), a redevelopment agency could not amend or create a redevelopment plan or add debt to its Statement of Indebtedness. Starting in November 2008, interest would accrue on any outstanding pass-through payment obligation at a rate equal to twice the Pooled Money Investment Account rate. Because the recapture payments are not new obligations, they could not be designated as additional RDA debt to extend the life of any redevelopment project or increase the amount of debt used to determine the amount of tax increment revenue that an RDA may receive. County auditors would be reimbursed by RDAs for costs incurred by them to carry out these tasks.

Accounting and Reporting. In the case of K-14 education, instead of depositing the full amount with the district, the redevelopment agency shall deposit to the county ERAF 43.3 of any amount owed to a K-12 district and 47.5 percent of any amount owed to a community college district.

Five-Year K-14 Recapture (estimated $20 million annually). In order to correct underreporting or misreporting by K-14 districts of pass-through payments to the state over the last five years, LAO recommends a temporary increase in the portion of future pass-through payments counted as property tax revenue (and deposited into Educational Revenue Augmentation Funds (ERAF), as discussed below) for those districts. The increase would be from 43.3 or 47.5 percent to 80 percent until such time as the amount of underreporting has been offset. If a K-14 district would incur significant hardship associated with this temporary change, the LAO proposes that the districts, with the assistance of their county office of education, propose an alternative schedule for correcting the underreporting.

Simplify and Improve the Accountability of the Pass-Through Mechanism ($28 million annually). LAO recommends the following statutory changes to greatly simplify the pass-through process:

- Place Responsibility with County Auditors**.** Shift the responsibility for calculating and making pass-through payments from redevelopment agencies to county auditors. This will centralize responsibility for these calculations and payments in the county official generally responsible for property tax allocations. Furthermore, this will facilitate oversight by the State Controller's Office since the office already works closely with county auditors regarding property tax allocation.
- Use ERAF to Simplify Payments and Reporting**.** Require county auditors to deposit into their county Educational Revenue Augmentation Fund (ERAF) the portion of RDA pass-throughs that must be reported as K-14 property tax revenue. Placing this portion of the payments directly in ERAF, where they directly offset state apportionment and Proposition 98 costs, avoids relying on the individual K-14 districts to allocate, record, and report their pass-through payments accurately (especially since they may receive several types of pass-through payments subject to different rules and not always properly identified by the RDA). County auditors would pay the supplemental funding portion of the pass-throughs to the K-14 districts. In the case of basic aid (or “excess tax”) K-14 entities, they would receive additional payments from ERAF to the extent that their pass-through payments were deposited to ERAF.

Staff Comments: This issue has been brought to the attention of Subcommittee 1. However, the specific responsibilities and tasks that would be imposed by the proposed trailer legislation affect redevelopment agencies and county auditors—entities of local government that are within the jurisdiction of Subcommittee 4. LAO has presented a detailed roadmap to the resolution of this problem, particularly given the brief amount of time since the State Controller's audit was released. However, additional discussions should take place with the State Controller's Office, Department of Finance, redevelopment agencies, county auditors, and the education community regarding the specific features of this approach. Consequently, staff recommends adopting the LAO recommendations as placeholder trailer bill language, to move this issue forward to Conference, and score an initial estimate of $98 million of General Fund savings. This issue was discussed in the full Budget Committee on June 2.

Staff Recommendation: Adopt placeholder TBL and score $98 million of General Fund savings.

Action: Staff Recommendation approved on a 3-0 vote.

7. 9350 Shared Revenues

The 9350 budget item apportions special monies collected by the State to local governments on the basis of statutory formulas. Of the amounts displayed in this budget item, $12.3 million is General Fund and $2.1 billion is special funds and federal funds. As indicated, the apportionments are generally statutory, and this year, there is no budget bill appropriation for this budget. However, the Administration proposes trailer bill language to implement 10-percent budget reductions for the two General Fund apportionments.

Trailer Vehicle License Fee (Governor's Budget). This budget item apportions revenue to cities and counties that lost Vehicle License Fee (VLF) revenue when the State converted from an un-laden weight system to a gross vehicle weight system for purposes of assessing VLF for commercial vehicles. This change conforms to the International Registration Plan, a reciprocity agreement among US states and Canada for payment of commercial license fees based on distance operated in each jurisdiction. This funding is deposited in the Local Revenue Fund to support local health and welfare programs. This is associated with a state/local healthcare realignment implemented in 1991. The Governor proposes a $1.2 million cut (10 percent) to this $11.9 million backfill apportionment. This apportionment was instituted before, and is separate from, the VLF Swap that shifted property tax to cities and counties to backfill for the VLF rate reduction. This issue was previously discussed in the Subcommittee on April 7 and May 22 and held open.

Staff Recommendation: Approve the Governor's budget reduction.

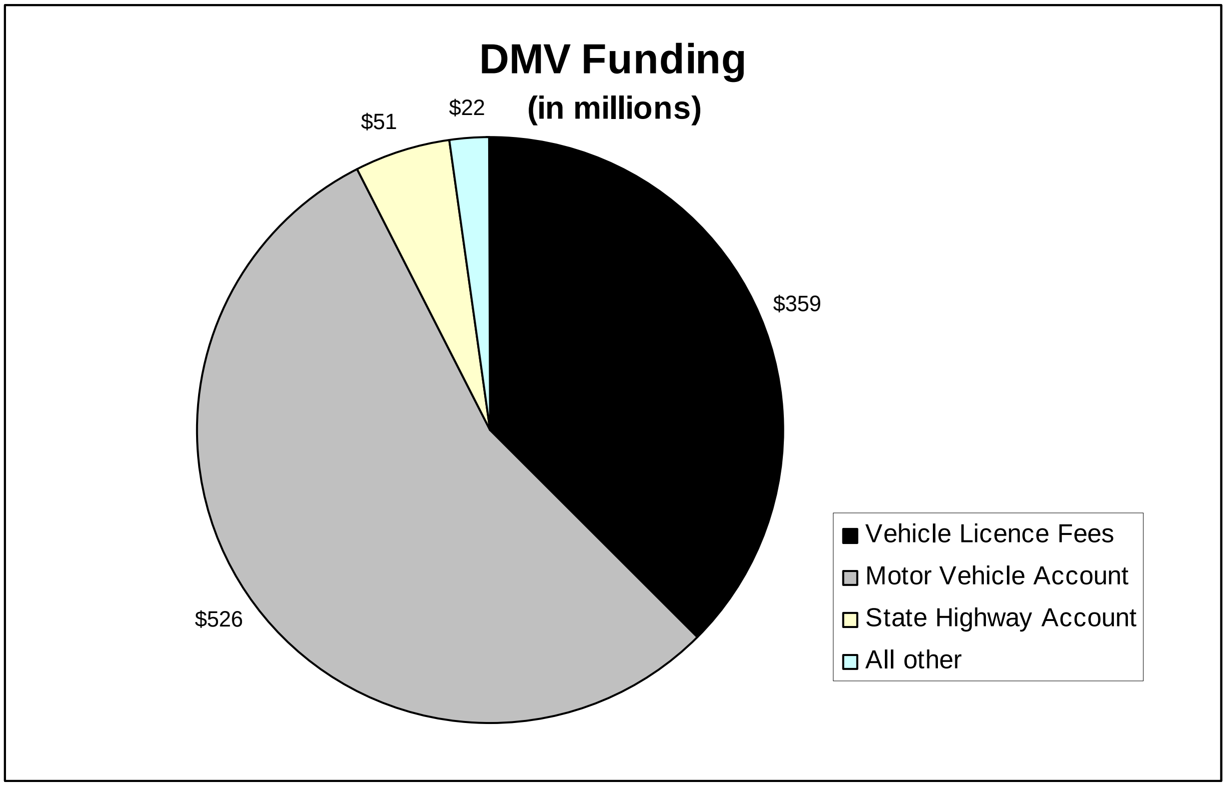
Action: Staff Recommendation approved on a 3-0 vote.

8. 2740 Department of Motor Vehicles

According to the Governor's budget, "the mission of the Department of Motor Vehicles (DMV) is to effectively and efficiently serve the public by:

- Registering vehicles to identify and authorize use, and titling vehicles to establish ownership interest for consumer protection.
- Licensing and regulating the motor vehicle industry and licensing drivers to protect consumers and promote traffic safety.
- Establishing true identity to ensure the validity of licensed drivers and identification card holders, and securing personal information for consumers' protection."

Vehicle License Fee Revenue. It is not mentioned in the Mission Statement, but the DMV also collects the Vehicle License Fee (VLF), an in lieu property tax, on behalf of local governments. Despite the collection of the VLF not being a primary function of the DMV, 37 percent of the DMV's budget comes from the VLF – these are funds that would otherwise go to local governments.



Background / Detail: For 2008-09, the VLF is projected to generate about $2.39 billion. The VLF revenues are allocated as follows:

- $1.8 billion continuously appropriated for local government pursuant to the 1991-92 State-Local Program Realignment (Realignment);
- $234 million apportioned to local governments; and
- $359 million for the DMV (plus about $6 million for the Controller and FTB).

Staff Comment: The $359 million for the DMV is about 15 percent of the total VLF revenues. This appears to be a high percentage, given that the function of collecting the local VLF funds is done concurrently with the collection of the regular vehicle registration fees.

Rather than the DMV being disproportionately subsidized with local VLF revenues, the DMV should be adequately funded by the primary funding source, the Motor Vehicle Account (MVA). This can be accomplished by capping VLF funds for the DMV at ten percent.

If the DMV's share of the VLF revenues were to be reduced, more funds could be provided to counties through Realignment. And if Realignment is increased, then Subcommittee #3 can avoid some of the Governor's most difficult cuts to the In Home Supportive Services (IHSS) program by shifting additional IHSS costs to Realignment.

With a fund balance of over $230 million, the MVA should be able to absorb a phasing down of the VLF share in 2008-09. This may result in the need for modest fee increases in future years, perhaps as much as $4 for annual car registration. It should also be noted that the LAO's alternative budget includes a similar proposal which would realign $130 million of the VLF from the DMV to local governments as part of their Parole Realignment proposal.

Staff Recommendation:

- Approve placeholder Trailer Bill Language capping the DMV's share of VLF revenues at 10 percent in 2008-09, and increasing the portion going to Realignment;
- Reduce VLF funding for the DMV by $120 million; and
- Increase MVA funding for the DMV by $120 million.
- Under open issues, the additional Realignment revenues enable $120 million of IHSS costs to be reduced from the General Fund and instead drawn from Realignment. Therefore, <u>in the Department of Social Services budget</u>, we shift $120 million of IHSS costs to Realignment, resulting in the same amount in General Fund savings. This will require technical changes to trailer bill and budget adjustments, with direction to Finance to effectuate this shift-out of funds.

Action: Staff Recommendation approved on a 2-1 vote, with Senator Harman voting no.

9. 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 (MOU) 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. All bargaining units except Unit 5 (California Highway Patrol Officers) have expired contracts or contracts that will expire at the end of 2007-08.

The Governor's Budget proposed $646 million ($392 million General Fund) in Item 9800. Included in this amount is a funding request of $230 million General Fund for the Last, Best, and Final Offer (LBFO) of the Administration to the California Correctional Peace Officers Association (CCPOA), although no policy bill to implement that offer has been introduced to date (note, an additional $260 million is also budgeted in 2007-08 for that LBFO that would be appropriated from the implementing legislation). The LAO indicates that the *total* cost for State employees' salary is about $23 billion, with an additional $7 billion for benefits and other related costs (including universities for both cost measures). The General Fund supports more than one-half of this total.

The May Revision proposes to move $421 million of the CCPOA LBFO from this item to the reserve ($186 million of the reduction is for 2008-09, and $235 million of the reduction is for 2007-08), and retain about $70 million over the two years for health inflation for CCPOA. Other minor changes are included in the May Revision to conform the budget to new cost estimates for other units.

April 7, Sub 4 Hearing: The Senate heard Item 9800 issues at the April 7 hearing. In the *Analysis of the 2008-09 Budget Bill*, the LAO had recommended rejection of $550,000 ($331,000 General Fund) included in this item for a new pay differential for workers associated with the Human Resources Management System (HRMS), because the Administration did not have a comprehensive plan for when and how to apply the differential to other enterprise projects – the Subcommittee rejected the funding noting possible reconsideration after the plan was received. The Assembly also rejected this funding at a May 27 hearing. While a plan has been submitted, the General Fund gap has grown by several billion dollars. Given the budget situation, Staff recommends no further action on this issue (do not reverse the rejection of this funding). Under current law, the Administration has the discretion to set pay for *excluded* employees, constrained by the sufficiency of existing appropriations. To the extent the Administration believes such differentials are critical for excluded employees of HRMS and other enterprise projects, they can implement the differential with redirected funds in departmental budgets.

(see next page for action issues)

A. Last, Best, and Final Offer to CCPOA: In January, the Administration budgeted $490 million (General Fund) to fund the implementation of the Last, Best, and Final Offer (LBFO) to the California Correctional Peace Officers Association (CCPOA). With the May Revision, the Administration would move all but $70 million of this amount to the budget reserve. The Administration indicates it still supports implementation of the LBFO; however, no implementing policy legislation has been introduced to date.

LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends rejection of funding (General Fund) for the CCPOA Last, Best, and Final Offer.

Staff Comment: For consistency, the Subcommittee may want to move *all* funding for the LBFO out of this item, with the intent that funding would be included in a policy bill that implements the LBFO or a future MOU. When the budget was developed, the Administration may have anticipated enactment of a policy bill to implement their Last, Best, and Final Offer, but no policy bill has been introduced to date. Since the timeline for a CCPOA MOU now seems consistent with the timeline for other bargaining units with expired or expiring MOUs, it may make more sense, and be more in keeping with standard budget procedure, to remove this funding from the budget.

Because the budget bill does not schedule funding by bargaining unit, Staff recommends the following budget bill language to specify the reduction.

Items 9800-001-0001, 9800-001-0494, and 9800-001-0988
Provision__. The funds appropriated by this item and any other item may not be used or expended to fund any compensation proposal in the last, best, and final offer made by the state employer to State Bargaining Unit 6 implemented on September 18, 2007. Nothing in this act shall be construed as Legislative approval for the expenditure of funds in accordance with that state employer's last, best, and final offer, as required by subdivision (b) of Section 3517.8 of the Government Code.

<u>This issue was also discussed at the April 7 hearing</u>.

Staff Recommendation: Delete all budget funding for the Last, Best, and Final Offer in both 2007-08 and 2008-09 and adopt the Staff budget bill language.

Action: Staff Recommendation approved on a 3-0 vote.

B. May Revision Cost Estimates: In the May Revision, the Administration requests to augment the General Fund appropriation by $3.4 million and decrease other fund appropriations by a total of $35.6 million to reflect revised estimates pursuant to existing bargaining unit agreements.

LAO Recommendation: The Legislative Analyst recommends approval of these funding changes, but also suggests new budget bill language to clarify that the approval of these items do not represent approval of any side-letter agreements that are still working their way through the policy committees.

Items 9800-001-0001, 9800-001-0494, and 9800-001-0988
Provision __. This item contains funds estimated to be necessary to implement side letters, appendices, or other addenda to memorandum of understanding (collectively, referred to as "pending agreements") that have been determined by the Joint Legislative Budget Committee to require legislative approval prior to their implementation, but which may not have been approved in separate legislation as of the date of the passage of this act. In the event that the Legislature does not approve separate legislation to authorize implementation of any of the pending agreements, the Department of Finance shall allocate no funds related to such pending agreements pursuant to Provision 2 of this item, and the expenditure of funds for such pending agreements shall not be deemed to have been approved by the Legislature.

Staff Comment: A portion of funding for this item addresses health-care inflation costs that will be affected by the final negotiated rates between CalPERS and healthcare providers. The LAO had recommended sending this issue to Conference Committee so further adjustments could be made in conformance with the actual negotiated costs. The Assembly already reduced funding by $1,000 for each appropriation to take this issue to conference, so no further action is required. Note, some unit have contracts that tie the state health contribution to a percentage of total cost instead of a flat dollar amount – therefore, those provisions and those costs continue for affected units, even after the expiration of contracts.

Staff Recommendation. Approve the revisions to cost estimates and adopt the LAO budget bill language.

Action: Staff Recommendation approved on a 3-0 vote.

Staff Recommendation: Approve Staff Recommendations as indicated for each of the vote only issues.

Action: See individual items for actions.

Issues Proposed for Discussion / Vote:

2640 State Transit Assistance / 2660 Department of Transportation

Crosscutting Issue: Allocation of Transit Revenue.
The Administration's May Revision revenue forecast estimates over $2.0 billion in transit revenues that come from a portion of the sales tax on fuels. This estimate is up about $400 million since the January estimate due to rising fuel prices. This revenue has also grown dramatically in the past decade due to higher gasoline prices – in 2000 to 2002 revenues from these sources were under $300 million annually.

Major 2008-09 "transit" revenues	May Revision Revenue Forecast (in millions)
Spillover (gas sales tax above Prop 42)	$1,177
Prop 42 (part $1.4B total)	$286
Diesel Sales Tax	$492
Prop 111 (small part of gas sales tax)	$65
TOTAL	**$2,020**

The traditional use of these revenues is operations funding for transit agencies (via 2640 State Transit Assistance (STA)) and funding for transit capital projects and intercity rail operations (via 2660 Department of Transportation (Caltrans)). In many recent budgets, some transit revenue has been diverted to General Fund relief. Diversions to the General Fund were adopted on a year-by-year basis, until the 2007-08 budget, when an ongoing formula was adopted. The ongoing formula diverts half of the spillover revenue from the Public Transportation Account (PTA) to the new Mass Transportation Fund (MTF). The MTF is used for transportation expenditures otherwise funded by the General Fund. The ongoing formula was intended to specify an ongoing share for transit to promote predictability for transit and aid the General Fund.

Governor's Proposed Allocations: Under the current law allocation, traditional transit categories would receive about $1.3 billion of the revenue and about $736 million would go to transportation expenditures that provide General Fund relief. The Governor's May Revision proposes revisions to current law to decrease funding for traditional transit to about $591 million (a $694 million decrease) and increase General Fund relief to about $1.4 million (a $694 million increase). The chart on the following page shows the current-law and proposed allocation of transit funds.

Allocation of "transit" revenues	Current-Law Allocation (in millions)	Governor's Allocation (in millions)
Prop 42 Loan Repayment (via MTF)	$83	$83
GO Debt (via MTF)	$506	$607
Home-to-Schools transit (via PTA)	$0	$593
Disability Svcs transit (via PTA)	$147	$147
State Transit Assistance (via PTA)	$886	$306
Caltrans / other (via PTA)	$399	$285
TOTAL	**$2,020**	**$2,020**

Subtotal: GF Relief	**$736**	**$1,430**
Subtotal: Traditional Transit	**$1,285**	**$591**

Proposal for 2640 State Transit Assistance (STA): As indicated in the above table, the amount current law would provide for STA is $886 million and the Administration is proposing funding of $306 million. As background, $624 million was allocated in the 2006-07 budget (however, this was about $150 million more than the historic allocation formula would provide due to a one-time loan repayment, and an increased share of PTA revenues) and $306 million was allocated in the 2007-08 budget (however, this was about $340 million less than the historic allocation would provide due to redirection of revenue to support General Fund relief). The Governor's January budget proposed $743 million for STA, which tied to current law and the January revenue estimates.

Proposal for 2660 Department of Transportation (Caltrans): As indicated in the above table, the amount current law would provide for "Caltrans / other" is $399 million and the Administration is proposing funding of $285 million (the "other" category includes about $10 million spread across the High-Speed Rail Authority, the University of California, and the Public Utilities Commission). As indicated at the April 23 hearing, the amount proposed for Caltrans would not be sufficient to support ongoing capital and intercity rail expenditures in 2008-09, and loans of about $60 million from other transportation funds are proposed by the Administration.

Proposal for General Fund Relief: As indicated in the above table, the amount current law would provide for General Fund relief is $736 million and the Administration is proposing funding of $1.4 billion. The additional General Fund relief would primarily be directed to Home-to-Schools transportation ($593 million above the January budget) and transportation-related general obligation bond (GO Bond) debt service ($235 million above the January budget).

Historic Context: Most of the past General Fund relief has been shifted from the "spillover" component of funding. The spillover transfer dates back to legislation enacted in the early 1970s when a quarter cent of sales tax on all goods was shifted to local governments for transportation purposes. To compensate the General Fund, the sales tax was applied to gasoline for the first time. A spillover trigger mechanism was also adopted that shifted any net General Fund gain to transportation (i.e. when the revenue from gasoline sales tax exceeds revenue from a quarter cent sales tax on all goods, the excess is spillover revenue). In 13 of the past 24 years, the trigger has not been activated, and there has not been any spillover revenue. However, since 2003, rising gasoline prices have resulted in the trigger activating and increasing amounts of spillover revenue. Proposition 42, approved by voters in 2002, shifted sales tax on gasoline to transportation purposes, but did not revise the spillover formula. Since Proposition 42 includes a transit component, and is intended to be a stable source of transportation funding, the spillover concept is antiquated and has proven to be anything but a stable source of transit revenue. Last year's Budget Act agreement recognized this, and it opened the door to spillover funds being used for transportation-related purposes traditionally borne by the General Fund.

Issue for Consideration: In evaluating the Governor allocation of transit revenue, the Subcommittee may want to consider the following goals or targets.

- Provide significant General Fund relief – difficult actions are required to close the General Fund gap.
- Limit General Fund relief to spillover revenue / protect base transit revenues – post Proposition 42, spillover is antiquated and not a dependable transit revenue. Base non-spillover revenue (part of Prop 42, Prop 111, and diesel sales tax) should be retained for traditional transit purposes to maintain the State's core role in transit investments.
- Fund State Transit Assistance at the full share of non-spillover revenue ($494 million, which is $188 million more than the Governor) – To the extent possible, this should be a stable revenue floor for transit operations.
- Fund Caltrans sufficiently to avoid the need for loans from other transportation funds ($60 million in loans are proposed by the Governor) – loans create risks for the programs and projects otherwise funded by the loaned funds.
- Fund Caltrans to minimize project delays for transit capital projects in the State Transportation Improvement Program (STIP) – The California Transportation Commission (CTC) indicates that $65 million in STIP projects were proposed for 2008-09, which would be pushed to an outyear under the Governor's funding plan.

Staff Comment: The Assembly restored $317 million to traditional transit relative to that requested by the Governor (thus reducing General Fund relief from $1.4 billion to $1.1 billion). The Assembly restoration was all on the State Transit Assistance side, no additional funding was provided for Caltrans. The Subcommittee may want to consider the Assembly level of funding, but shift a portion to Caltrans to avoid the need for loans from other transportation funds, and to avoid delays for transit STIP projects. The Administration has proposed trailer bill language to remove the sunset on inter-transportation-fund loan authority and allow loans from the Pooled Money Investment Account – while new loans may not be needed, this authority provides helpful flexibility to Caltrans in meeting its obligations.

Staff Recommendation:

- Fund State Transit Assistance at $494 million ($188 million more than the Governor).
- Fund Caltrans at $415 million ($129 million more than the Governor).
- Conforming action would include adjustments to the STA and Caltrans STIP appropriations, the Home-to-Schools Control Section, and implementing trailer bill language.
- Adopt, as placeholder, the Administration's loan trailer bill language, but limit the authority to three years, instead of permanent.

Action: Staff Recommendation approved on a 2-1 vote, with Senator Harman voting no.

Attachment 1

Costs for February 2008 Presidential Primary Election

feb costs breakout.xls

How to complete the Costs spreadsheet: Please enter your data in column C of the Costs spreadsheet. All other totals will automatically calculate.

		Complete Only This Column Costs	Totals: Subtotal	Category	Grand
Salary					
	Perm Staff		0	0	0
	Temp/Contract				
	Election Day Help				
Services and Supplies				0	
Printing					
	Ballots		0		
	Sample Ballots				
	Other				
Precinct Supplies					
	Kits/manuals		0		
	Rosters/Street Index/ signs				
Rental	Vans/polling places/lights/forklifts/phones		0		
Drayage	delivery services		0		
Other	all other necessary services		0		
Postage					
	Sample ballot/VBM/MB/Postcards/etc		0	0	

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Part B
Wednesday, June 4, 2008
9:30 a.m.
Room 4203

(Consultant - Keely Martin Bosler)

Item **Department** **Page**

State Administration—General Government—Judiciary—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.

5225 California Department of Corrections and Rehabilitation

Corrections Population Reform

Previous Subcommittee Meeting. As discussed at the March 12 hearing of this Subcommittee, the Governor's January budget proposal contained two population reform proposals—20-month early release and summary parole. The Governor's January budget proposal assumed $354 million in savings in the budget year from implementing these reform proposals. Collectively, these proposals would reduce the average daily population in prison by approximately 35,000. These proposals would also reduce the parole population.

The Subcommittee has also discussed numerous other potential reforms to the corrections population at previous hearings. The Subcommittee also discussed how California's system of parole is different from nearly every other state, in that it does not allow for some inmates to be directly discharged from prison without a parole term. In addition to the Governor's population reform proposals, the Subcommittee has discussed a system of earned discharge from parole, reform to the good-time credits earned by offenders, parole realignment, and others.

May Revision. The Governor has pulled back the 20-month early release proposal as part of the May Revision and assumed additional savings related to implementing summary parole. This action required the Governor to restore $256.4 million in the May Revision to account for the reduced savings from not pursing this policy.

Furthermore, the Governor's May Revision assumes revised savings related to the summary parole proposal. Specifically, the department assumes that this policy will result in $110 million in additional savings above what was assumed in the Governor's January budget. These savings are offset by the erosion in savings ($34.3 million) resulting from the declining population estimate contained in the May Revision (discussed in more detail in the next item of this agenda) and delays in implementing the proposal. Therefore, the May Revision assumes additional savings of $75.7 million if the summary parole proposal is implemented. This makes total savings related to the summary parole proposal $173.6 million in the budget year. These savings would grow to $268.3 in 2009-10.

LAO Adds Options. The LAO has added two additional population reduction proposals to its alternative budget. These options include (1) increasing work-release credits for inmates that complete rehabilitation programs, and (2) early release of aging inmates. The LAO estimates that these options would generate $20 million and $30 million in savings, respectively.

Staff Comments. Staff finds that the additional savings identified by the Governor in the May Revision seems reasonable if a policy of summary parole is implemented (the additional savings are summarized in the table below). However, staff finds that over half of the additional savings is related to discontinuing contracts for community-based parolee services, including residential drug treatment, mental health services, and other residential services. Staff finds that there would continue to be a need for these services in the community even if a policy of summary parole was adopted.

May Revision: Additional Savings Related to Summary Parole		Amount (In Millions)
Contract Jail Beds		
Local Assistance - Reimbursements to locals for holding parole violators.		$30.6
Contract Jail Beds		7.7
	Subtotal	*$38.3*
Parole Program Savings		
Various Parolee Programs: Residential, Employment, Others		$20.0
In-custody Drug Treatment Program: Residential Drug Treatment		4.4
Parolee Service Centers: Residential Services		12.5
Community Based Coalition: Residential Services in Los Angeles		8.1
Parolee Outpatient Clinics: Mental Health Services		6.9
	Subtotal	*$51.9*
Other Operational Savings		
Board of Parole Hearings - *Valdivia* Workload		$10.5
Case Records - *Valdivia* Workload		4.2
Parole Academy Operations		5.0
	Subtotal	*$19.7*
Total		**$109.9**

Under summary parole, offenders cannot be sent back to prison unless they are convicted of a new felony offense. Therefore, offenders on summary parole that are arrested for a new misdemeanor offense would have to be dealt with in the community and many would demand drug treatment or other residential services to address their needs. This would place increased strains on the existing network of community treatment and residential services that is already inadequate.

Furthermore, staff finds that many serious and violent offenders have a need for drug treatment and residential services while on parole. The department could reduce recidivism among this population and improve public safety if it directed more offenders that have committed serious and violent offenses into community treatment programs when paroled. Furthermore, the Expert Panel recommended that services be targeted at the inmates with the highest risk to re-offend, which in many cases are offenders that have committed serious and violent offenses.

As discussed at several Subcommittee hearings, there are numerous options for reform that would reduce the prison population and minimize the impact on public safety. These reforms also have the potential to improve outcomes of offenders and improve public safety by keeping offenders in treatment and out of prison. In order to achieve sizeable savings in the corrections budget, a menu of these reforms will need to be considered and ultimately adopted.

Staff Recommendation. Staff recommends that the Subcommittee hold open the Governor's summary parole proposal and budget savings.

Adult Population Estimate

Previous Subcommittee Meeting. At the May 5 meeting of the Subcommittee, the department's population estimate was discussed. At this meeting, the estimate was held open pending the revisions anticipated in the Governor's May Revision. At this meeting, the Subcommittee also adopted budget bill language, recommended by the LAO, to ensure continued progress in improving the population estimate process.

Starting in 2007, the department started to reform its population estimate process to make it more reflective of the actual costs of the state prison and parole system. So far this has included major improvements in the information provided to the Legislature. However, more needs to be done to improve the workload information underpinning many of the assumptions that continue to be used in the population estimate.

Adult Inmate Population. The Governor's January budget proposal estimated that the average daily inmate population would be 177,021 in the budget year. The May Revision estimate assumes that the average daily inmate population should be revised downward to 170,641 inmates for the budget year. The May Revision also assumes that the average daily inmate population in the current year was overestimated by about 2,107 in January. The updated population estimate assumes that year-over-year the inmate population will decline by 1 percent in the budget year.

Adult Parole Population. The Governor's January budget proposal estimated that the average daily parolee population would be 133,061 in the budget year. The May Revision estimate assumes that the average daily parolee population should be revised downward to 122,872 parolees in the budget year. The May Revision also assumes that the average daily parolee population in the current year was overestimated by about 2,887 in January. The updated parolee estimate assumes that year-over-year the parolee population will decline by 2.8 percent in the budget year.

Population Estimate – Fiscal Impact. The Governor's January budget proposal contained $77 million General Fund to fund the population estimate in the budget year. The Governor's January proposal also contained an additional $14 million in the current year.

The May Revision estimate reduces the budget year funding by $88 million and the current year funding by $31.4 million due to reduced population estimates in the current and budget years.

In summary, the total decrease in funding related to the population estimate is $11.4 million in the budget year and $17.4 million in the current year.

There are also other items considered adult policy adjustments and local assistance that are included in the population estimate package. These proposals are impacted by changes in the inmate and parolee population, but support distinct changes in department policy and subventions to local government for costs associated with the state prison and parolee population. These totals include increased expenditures $53.6 million in the budget year and $6.8 million in the current year.

Total funding for the adult workload budget, adult policy adjustments, and local assistance is an increase of $42 million in the budget year and a decline of $10.6 million in the current year. These adjustments are detailed in Attachment A of this report.

Population Reform Proposals. As discussed at the March 12 meeting of this Subcommittee, the Governor's January budget proposal contained two population reform proposals—20-month early release and summary parole. These population reform proposals were not reflected in the department's population estimate. However, the Governor's January budget proposal did assume that there would be $354 million in savings in the budget year from implementing these reform proposals.

The Governor has pulled back the 20-month early release proposal as part of the May Revision and assumed additional savings related to implementing summary parole. However, the Governor has not incorporated these savings or increased expenditures in the population estimate. The Governor has continued to adjust the savings and increased expenditures related to these reform proposals separate from the population estimate.

LAO Concerns with Revised Population Estimate. The population estimate included in the Governor's May Revision projects a decline over what was projected in January. These reductions are largely due to lower admissions from the courts, as well as fewer parole violators being returned to prison. The LAO is concerned that the declines in new court admissions will not continue consistent with recent trends assumed in the Governor's May Revision. Therefore, the LAO proposes to increase funding for the department by $20.4 million in the budget year, assuming about half the reduction projected by the department.

Staff Comments. Staff finds that some progress has been made in improving the population estimate. However, staff finds that more needs to be done to make the formulas that drive the population estimate process more reflective of actual department costs. The department has agreed to continue to work on these issues after the budget has passed.

Staff finds that many of the components of the population estimate will be impacted by actions being considered by the Legislature to reduce the prison and parole populations. Staff finds that it would be appropriate for the population estimate to be sent to conference committee so any changes can be made to reflect policy changes that reduce the prison and parole populations.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the population estimate included in Attachment A less $1,000 to ensure that the population estimate is sent to conference.

1. Out-of-State Beds

Previous Subcommittee Meeting. At the May 5 meeting of the Subcommittee, testimony was heard on the department's plans to activate additional contracts for beds in private prisons located out-of-state. Chapter 7, Statutes of 2007 (AB 900, Solorio) authorizes the administration to pursue contracts for up to 8,000 beds out-of-state until July 2011 as a temporary measure to relieve overcrowding in state prison facilities.

As of the end of May 2008, the department has transferred 4,020 inmates to out-of-state facilities. In the budget year, the department plans to activate 3,000 additional beds in a private prison in Eloy, Arizona.

The department indicates that the out-of-state program, along with natural population declines has enabled the department to deactivate 4,884 beds as of the end of May 2008. This has enabled the department to return gyms and dayrooms to their intended use and provide marginal relief in reducing the level of overcrowding in some facilities. The department indicates that the beds in the private prisons offer additional celled capacity that is not currently available in the state system. The majority of the inmates transferred out-of-state have been Level III inmates. The department prefers to house these inmates in celled housing, but because of the overcrowding in the state system many of these inmates had been housed in dormitory housing. Therefore, the department indicates that the out-of-state beds provide the right kind of beds for this inmate population.

Governor's Budget and May Revision. The population estimate includes $11 million in additional funding to support the out-of-state beds in the budget year. The majority of this funding is related to the activation of a new 3000-bed private prison facility in Eloy, Arizona. It also includes additional funding related to additional staffing requested to manage the out-of-state contracts, transport inmates and inmate property, and conduct pre-transfer screening.

A Finance Letter (dated May 13, 2008) also includes a budget proposal to add $1.9 million General Fund and 21.5 positions to support the activation of the additional 3,000 beds in a private prison in Eloy, Arizona in the budget year. The additional staffing includes a warden to oversee the program.

The positions requested in the Governor's January budget proposal and May Revision request are detailed in the chart below. The chart also includes information about the base budget staffing for the out-of-state program.

CDCR Staffing: Out of State Program	2007-08	2008-09		
	Base Positions	Jan. Pop Estimate Positions	May Revise BCP Positions	Total Positions
Executive Staff	3.0	1.0	1.0	5.0
Business Services	9.0	1.0	0.0	10.0
Transportation	6.0	0.0	0.0	6.0
Field Team	17.6	8.0	8.0	33.6
Health Care Services	9.0	2.0	0.0	11.0
Case Records	14.0	2.0	1.0	17.0
Administrative Support	7.0	3.0	5.5	15.5
Wasco State Prison	1.0	0.0	0.0	1.0
Classification Services	3.0	3.1	0.0	6.1
Accounting	2.0	2.0	0.0	4.0
Contracts	2.4	0.0	0.0	2.4
Legal Affairs	1.0	0.0	1.0	2.0
Information Technology	1.0	1.0	0.0	2.0
Human Resources	2.0	0.0	0.0	2.0
Division of Addiction and Recovery Services	0.0	0.0	1.0	1.0
Office of Correctional Education	0.0	0.0	1.0	1.0
Inmate Appeals	0.0	2.1	3.0	5.1
Total	**78.0**	**25.2**	**21.5**	**124.7**

LAO Recommendation. The LAO recommends rejecting the Finance Letter (dated May 13, 2008) that requests $1.9 million to support 21.5 additional positions to support the activation of another 3,000 beds in a private prison in Eloy, Arizona. The LAO notes that given the current General Fund situation, it is not clear that the additional staffing is a high state priority. Furthermore, the LAO does not believe the warden position is justified nor the property classification for an administrative position at CDCR headquarters. The LAO also suggests that existing field team members could be converted to rehabilitative program positions to incorporate the review of these programs into the department's regular monitoring.

Staff Comments. Staff finds that the out-of-state beds are marginally more expensive than activating additional beds within CDCR institutions, especially given the additional CDCR staff required to travel and monitor these contracts and ensure that the contractors comply with CDCR rules and regulations. The department has modeled the oversight staffing for the out-of-state contracts on the oversight staffing required for the in-state private prison facilities. However, the out-of-state facilities are slightly different because they house a higher level of inmate (mainly Level III inmates) that on average has a longer length of stay. The population housed in the out-of-state facilities is also more likely to have disciplinary issues that require oversight by CDCR staff to ensure due process rights of the inmate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Finance Letter proposal, but make the positions 3-year limited term since that is when the out-of-state program is scheduled to expire in statute.

2. In-Custody Drug Treatment Program Beds—Parole Violators

Previous Subcommittee Meeting. At the April 28 meeting of the Subcommittee, testimony was heard regarding a budget proposal to add $1.3 million General Fund to manage an In-Custody Drug Treatment Program ordered by the *Valdivia* lawsuit. This program requires CDCR to establish 1,800 community-based treatment beds for parolees that violate their parole conditions due to a drug or alcohol dependency. The court ordered that these beds be established by April 2008. The department plans to establish 850 community beds and 560 jail beds statewide.

The budget proposal was held open pending receipt of the May Revision to the population estimate.

Governor's Budget and May Revision. The Governor's budget proposal includes $1.3 million General Fund to support 11 positions that will oversee the management and contracting of the community beds ordered by the court.

The May Revision population estimate includes $6.5 million in the current year and $8.8 million in the budget year to fund contracts with the Substance Abuse Service Coordination Agencies (SASCAs) to implement the In-Custody Drug Treatment Program. The department expects to establish 1,530 of these beds in the budget year. The funding requested is the net of the institution savings from not returning the offender to state prison. The department has structured the program in three phases. Phase I is 60 day in-custody treatment, phase II is an additional 30 days in-custody treatment, and phase III is an additional 60 days in-custody treatment. The department expects that 30 percent of the offenders will need phase III treatment.

A Finance Letter (dated May 13, 2008) also proposes budget bill language to enable the department to transfer funds between adult institutions and rehabilitation programs so that it can reconcile budgeted expenditures with actual utilization for the In-Custody Drug Treatment Program.

Staff Comments. Staff finds that population trends show some evidence that these treatment beds have reduced the number of inmates returned to custody for short-term parole violations, thereby reducing the inmate population. The treatment programs should also help to reduce recidivism for this population, which could result in significant long-term savings to the state's prison system. Staff finds that proper contract oversight by CDCR staff is critical to ensuring effective and efficient use of state funds.

Staff finds that it will be critical for the department to track actual utilization of these beds. The department has requested budget bill language to enable the department to transfer funds between adult institutions and rehabilitation programs in order to reconcile the actual utilization of the In-Custody Drug Treatment Program beds. Staff finds that this may be appropriate, but it will also be important for the Legislature to be provided with information on the utilization of this program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal to oversee the In-Custody Drug Treatment Program.
- Approve budget bill language to allow for a transfer between programs only after notification of the Joint Legislative Budget Committee including information about actual utilization of the program by parole region.

3. Substance Abuse Program – Aftercare Services

Background. There have been numerous studies and audits over the past several years criticizing CDCR's Substance Abuse Program (SAP). One of the significant criticisms is the lack of a developed aftercare component. Many studies have shown that substance abuse treatment in-custody is significantly more effective when there is an aftercare component. Chapter 7, Statutes of 2007 (AB 900, Solorio) requires the department to establish 4,000 additional SAP beds in custody and specifically requires that the department also implement the aftercare component.

Furthermore, Chapter 875, Statutes of 2006 (AB 1453, Speier) allows any offender convicted of a non-violent non-serious offense that completes an in-prison substance abuse program to be entered into a 150-day residential aftercare substance abuse treatment program. If he or she completes this residential aftercare program successfully, the offender shall be discharged from parole at that time. The department is also pursuing aftercare services for offenders that do not meet the AB 1453 criteria.

Governor's Budget and May Revision. The May Revision does not include additional funding for aftercare services in the budget year due to inconsistencies in how the aftercare data is currently being reported. However, the department has put forward a new methodology for funding aftercare services going forward that is based on actual utilization data.

The base budget includes $46.4 million to support these aftercare programs in the budget year.

At the April 28 meeting of the Subcommittee, the Subcommittee approved the Governor's budget proposal to allocate $8.1 million from the $50 million included in AB 900 to add 2,000 additional in-prison drug treatment beds. This proposal includes activating 720 aftercare slots in 2009-10 at a cost of $9.7 million, but provides no additional funding in the budget year.

Staff Comments. Staff finds that it is appropriate to adjust the funding available for aftercare as the population changes as long as it is based on actual utilization data. Aftercare is a critical component to the department's substance abuse program and if properly implemented can help to reduce recidivism. Staff agrees with the department that a uniform system for collecting and reporting aftercare utilization data is needed so that the Legislature can better understand how this program is being implemented.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve budget bill language that requires the department to ensure consistent reporting of aftercare utilization and require that this information be reported to the Legislature in the January 2009 budget proposal.

4. Re-Entry Facilities

Previous Subcommittee Meeting. At the May 5 meeting of the Subcommittee, the discussion item on re-entry facilities was pulled off the agenda.

Chapter 7, Statutes of 2007 (AB 900, Solorio) included $2.6 billion to construct 16,000 re-entry beds. These facilities are to be no more than 500 beds and be located in communities where offenders would parole. The department plans to design an environment in the re-entry facility that provides intensive rehabilitative programming in the last year of incarceration and provides a step-down environment.

Chapter 228, Statutes of 2007 (SB 943, Machado) was enacted in 2007 to site the state's first re-entry facility at the closed Northern California Women's Facility in San Joaquin County. The Corrections Standards Authority (CSA) has received proposals for 19 additional re-entry facilities as part of the request for proposal to allocate jail bond money also included in AB 900. Language included in AB 900 and Chapter 175, Statutes of 2007 (SB 81, Budget) requires that CSA give preference in awarding the jail money to counties that site re-entry facilities.

Governor's Budget and May Revision. The population estimate includes partial funding to support two re-entry facilities in the budget year. Specifically the budget includes:

- **Northern California Re-entry Facility (NCRF).** The Governor's budget and May Revision includes $81,000 in the current year and $12.8 million in the budget year to support the pre-activation team and to activate the re-entry facility in May 2009 and start receiving inmates by July 2009. Pre-activation includes developing the programs, establishing contracts for community based services, and starting the process for hiring staff at the facility.
- **San Francisco Re-entry Project.** The Governor's budget and May Revision includes $2.4 million in the budget year to contract with San Francisco County to run a 48-bed re-entry facility in their County Jail. This project will include programming for the offender in jail and when on parole.

Staff Comments. Staff finds that the department is still developing the programs to be implemented at the re-entry facility. The concept of the re-entry facility is to provide all offenders with enhanced programming opportunities in the last year of incarceration and to provide important linkages to local community resources that will improve public safety. However, this is considerably different from existing prison operations where only a small portion of the inmate population is participating in rehabilitation programs. Furthermore, since the department has not received a comprehensive plan for implementing this facility it is difficult to evaluate the staffing package included in the May Revision in a meaningful way. The table below summarizes the staffing package put forward for NCRF. The department indicates that the staffing package is based on many months of discussions internally at the department and a review of how other states are implementing re-entry facilities.

Staffing Package: Northern California Re-entry Facility

	Positions
Administration	86.6
Custody	136.7
Program	30.6
Health Care	87.7
Total	**341.6**

As discussed at several other Subcommittee hearings, the development of additional re-entry facilities requires a considerable amount of coordination with local government. Staff finds that the state grants for local jail construction are critical to ensuring that re-entry facilities are sited near communities where the offenders will parole. The Corrections Standards Authority made conditional awards of $750 million in lease revenue bonds to fund 12 jail projects. All of the counties that were awarded jail funds have agreed to help the state site a re-entry facility. These jail awards are only conditional because the department needs to complete additional analysis and due diligence of the sites offered to ensure they are suitable for a re-entry facility.

Furthermore, staff understands that the Attorney General has requested some changes to the AB 900 language to enable a clean bond opinion. A Finance Letter (dated May 9, 2008) includes the language requested by the Attorney General. The DOF has indicated that this language will enable the Attorney General to issue a clean bond opinion regarding the lease-revenue bonds authorized in AB 900 including the bonds authorized to fund the local jail facilities. However, the Attorney General indicates that there continues to be two taxpayer lawsuits related to AB 900 that may continue to jeopardize his ability to issue a clean bond opinion.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve budget bill language that requires a clean bond opinion before the re-entry facility at NCRF can be activated.
- Approve supplemental report language to require the department to submit its model program plans for the re-entry facilities and a specific program plan for NCRF by January 2009.

5. Female Bed Plan

Previous Subcommittee Meeting. At the May 5 meeting of the Subcommittee, there was discussion about CDCR's budget proposals to improve outcomes for female offenders by implementing a continuum of care for female offenders. No action was taken on this proposal pending activation updates in the May Revision.

The Subcommittee also requested that the Administration submit the Female Offender Reform Master Plan developed in response to Chapter 706, Statutes of 2007 (AB 76, Lieber). At the time of the May 5 meeting of the Subcommittee, the plan had been completed but had not been forwarded to the Legislature.

Governor's Budget and May Revision. The Governor's budget proposal and May Revision includes $263,000 in the current year and $29.9 million in the budget year to implement various components of the department's female offender master plan, which includes investments in the following facilities to improve the continuum of care offered to female offenders to reduce recidivism and break the intergenerational cycle of incarceration:

- **Female Rehabilitative Community Correctional Centers.** $263,000 in the current year and $20.1 million in the budget year to support staff and contracts for an additional 1,275 beds in these community correctional centers. The department indicates that it is pursuing community based beds in increments of 200, 100 and 75 beds. Each facility would include a case manager to ensure that each female offender's treatment needs were identified in an Individual Treatment and Rehabilitation Plan and met. The May Revision reduced funding in the current year and budget year for these centers due to delays in activating a 75-bed facility in Bakersfield and revised contract costs for evaluating these facilities in the current and budget years.
- **Female Offender Treatment and Employment Program.** $3.3 million in the budget year to add an additional 150 of these beds in the community for female parolees. These beds would be added to the Division of Addiction Recovery Services' existing network of providers. This program has been evaluated by UCLA and has been found to reduce recidivism.
- **Female Residential Multi-Service Centers.** $1 million to continue implementation of 575 residential multi-service center beds for female parolees. The 2007 Budget Act included $7 million to support the activation of these beds in the current year. The department is in the process of contracting for these services. The goal of these centers is to provide female parolees with supportive housing to enable reduced recidivism. The department has activated its first 25-bed facility in Sacramento.
- **Sober Living Environment Beds.** $5.5 million to activate 750 Sober Living Environment beds that are step-down facilities for female offenders that have completed residential drug treatment. These facilities will be small and will enable female offenders to live with their children.

Staff Comments. Staff finds that the Master Plan for female offenders was received by the Legislature on May 21. Staff finds that the department's budget proposals are consistent with this plan, which calls for establishing community-based facilities for the treatment of non-serious nonviolent female offenders and providing offenders with a treatment environment that provides wrap-around services.

Staff finds that the majority of female offenders in state prison are mothers and improving outcomes for this cohort of the prison population can have significant impacts on reducing the intergenerational cycle of crime and incarceration. Staff finds that these community-based beds are more expensive than regular prison beds, but are better designed to improve the outcomes for female offenders.

Staff Recommendation. No additional action needed. Funding for this program is contained in the population estimate.

Division of Correctional Health Care Services

1. *Coleman* Mental Health Staffing

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, the Subcommittee discussed a Finance Letter (dated April 1, 2008) that proposes establishing 408 positions (mainly clinical) to provide staffing needed to implement the Mental Health Services Delivery System Revised Program Guide. The workload study completed in June 2007 identified a revised mix of positions to fully implement the Revised Program Guide including establishing these additional positions. The budget proposal does not include additional funding required to support these positions given the significant number of vacancies the department has in these position classifications.

The Subcommittee also discussed the importance of building on the core competencies of the Department of Mental Health in providing acute care to mentally ill patients as CDCR expands its mental health program to comply with the *Coleman* lawsuit. The Receiver currently plans to build 5,000 mental health beds in consolidated care centers including the construction of acute beds. Given this, staff finds that it may be appropriate for the Department of Mental Health to expand its current involvement in providing acute care services within CDCR facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve the Finance Letter less three positions.
- Approve a Reimbursement Item to provide the Department of Mental Health with three positions (one psychologist, one analytical position, and one support position) funded from CDCR salary savings. These positions should support a collaborative effort to plan for the Department of Mental Health to provide acute care to mentally ill inmates within CDCR institutions, consistent with their core mission.

2. Inmate Dental Services Program

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, testimony was heard on the department's budget proposal to add $2.6 million to support 19 positions and training for CDCR nurses and doctors in recognizing major dental-related issues. The majority of these positions (16 positions) are court ordered and were administratively established in the current year and funded with salary savings.

The Subcommittee also discussed recent allegations against the department that inmates were being excluded from certain rehabilitation programs if they did not have a clear dental record. The department has provided some information to staff about related department policies. It appears that the department does have a policy that excludes some inmates from rehabilitation programming opportunities if they have dental issues that need resolved.

Staff Comments. Staff finds that outstanding dental issues should not exclude an inmate from participating in rehabilitative programming except for in extreme cases. Furthermore, staff finds that coordination and case management could help to reduce or altogether avoid situations where inmates have to choose between dental care and entering a rehabilitation program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal.
- Approve supplemental report language to require that the department evaluate its current dental class code matrix and develop strategies for reducing program exclusions for inmates with outstanding dental issues that are not life threatening.

Capital Outlay

1. Minor Capital Outlay

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, this issue was held open pending review of the detail behind the allocation of the minor capital outlay funding. The Governor proposed $7.5 million be allocated to various minor capital outlay projects, but did not submit detail behind these proposals until the May Revision.

Governor's Budget. The Governor's budget proposal includes $7.5 million General Fund. The department has submitted details on specific projects that total $5.5 million. The projects that have been approved by DOF include the following minor capital outlay projects:

- **California Medical Facility.** $359,000 to install a new fire alarm system in the P-Wing that has been converted to an Intermediate Care Facility and is required by the Department of Health Services for licensure.
- **Pleasant Valley State Prison.** $472,000 to construct two confidential mental health treatment rooms in existing group therapy rooms in Facility A, B, C, and D to enable an individual treatment modality. (These projects are technically four different minor projects.)
- **California Men's Colony.** $318,000 to construct two rooftop security platforms for the A Quadrangle at the East Facility. This facility is designed as a Level III facility, but because the facility serves inmates with more serious medical and psychiatric needs there are many Level IV overrides in this facility. The CDCR indicates that Level IV overrides

require constant supervision during open yard movement. The A Quadrangle does not currently have the facilities to provide this supervision.

- **California Men's Colony.** $150,000 to construct one rooftop security platform on B Quadrangle at the East Facility to address the same problems identified on the A Quadrangle.
- **California Men's Colony.** $318,000 to construct two rooftop security platforms on C Quadrangle at the East Facility to address the same problems identified on the A Quadrangle.
- **California Men's Colony.** $282,000 to construct two rooftop security platforms on D Quadrangle at the East Facility to address the same problems identified on the A Quadrangle.
- **San Quentin State Prison.** $295,000 to install a dumbwaiter in the D Section of the South Block Administrative Segregation Unit to enable safe and efficient food service to the 5 tiers of the D Section. Currently, staff have to carry heavy trays up narrow, steep stairs and it takes approximately 1 hour and thirty minutes to complete each meal delivery. The dumbwaiter would provide a safer and more efficient means of delivering meals to the inmates in this facility.
- **California Men's Colony.** $339,000 to construct an additional staff bathroom and modify the existing bathroom at the main support warehouse at the prison. Currently, there is only one staff bathroom at this facility and it does not comply with current workplace regulations that require separate toilet facilities for each gender. The existing facility is also not ADA accessible and will need to be upgraded.
- **Mule Creek State Prison.** $254,000 to add two additional walk-in freezers to accommodate the overcrowded conditions at the prison. The current freezer capacity is overloaded resulting in food storage temperatures that are at unsafe levels.
- **Wasco State Prison.** $326,000 to install two additional blast chillers in the main kitchen to address existing deficiencies in the cook-chill operation at the prison. This project will improve the efficiency of the current food service system.
- **Northern California Youth Correctional Center.** $159,000 to install a water treatment center to treat the water supplied to the central kitchen. The existing water is hard and causes damage to the dishwashing machine and cooling tower that provides chilled water to the refrigeration system. This kitchen serves the O.H. Close Youth Correctional Facility and the N.A. Chaderjian Youth Correctional Facility.
- **North Kern State Prison.** $322,000 to remodel and add equipment to the existing re-therm kitchen to improve efficiency of the food service operation. The existing kitchen was not designed for the current overcrowded conditions at the prison.
- **High Desert State Prison.** $223,000 to construct two well houses to surround and protect wells at the prison that are currently not sheltered. These well houses will enclose and protect the uncovered wells, above ground piping, meters, and electrical equipment.
- **California Correctional Center.** $320,000 to install cooling units in the Arnold housing units at this prison. These buildings do not have any type of air cooling systems and summer inside temperatures are often above 90 degrees.
- **Deuel Vocational Institution.** $375,000 to install cooling units in the academic wing at the prison. This wing currently does not have proper ventilation and inside temperatures are often above 90 degrees.

- **California Medical Facility.** $307,000 to construct an additional parking lot to accommodate the increased staffing at this facility.
- **Deuel Vocational Institution.** $378,000 to construct two additional parking lots to accommodate the increased staffing at this facility.
- **Salinas Valley State Prison.** $341,000 to construct an additional parking lot to accommodate the increased staffing at this facility.

Staff Comments. Staff has no issues with these projects. They all appear to address existing deficiencies and, for the most part, problems at the institutions that are health and safety related. The department has not put forward specific proposals for $2 million of the total minor capital outlay request. The department indicates that it is still developing proposals to expend these monies. Staff finds that there are many existing deficiencies in the prison facilities that are health and safety related and negatively impact state prison operations. Furthermore, as the department continues to increase program utilization it is likely that other facility changes will need to be made to accommodate increased movement in the institution. For example, at RJ Donovan the installation of a door enabled inmates from one housing unit to participate in a substance abuse program that they otherwise could not access without escort.

Current Year Funding. The 2007 Budget Act included $2 million for minor projects in the current year. The Budget Act also included budget bill language to restrict the redirection of minor capital outlay funding unless there was notification of the Joint Legislative Budget Committee and the redirection was to accommodate special circumstances or an emergency.

The Committee received a Finance Letter (dated May 21, 2008) proposing to cancel one project, fund two new projects, and provide partial funding for one additional project. These changes were made because the department determined that the project to construct a new visitor processing center at the Correctional Training Facility would exceed the minor capital outlay threshold ($400,000). The department also proposes revising the estimates for all of the minor projects funded in the 2007 Budget Act. The three new projects are as follows:

- **Correctional Training Facility.** $148,000 to install additional lighting in the South Yard. The current lighting was installed in the 1950s and is inadequate to fully illuminate the yard. This poses a safety and security issue for staff and inmates.
- **High Desert State Prison.** $110,000 to install a heating, ventilation, and cooling system in the generator room at the prison. Currently, the unregulated temperatures in the generator room are deteriorating the conditions of the equipment.
- **Preston Youth Correctional Facility.** $29,000 to augment the budget for a *Farrell* minor capital outlay project funded in the 2007 Budget Act. The total cost of this project including this augmentation is $317,000.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the $5.5 million in projects described above.
- Approve the $2 million for other minor capital outlay projects.
- Approve budget bill language to require reporting to the Joint Legislative Budget Committee on the projects to be funded with the remaining $2 million.
- Approve budget bill language to require a report to the Legislature on the reconciliation of minor capital outlay projects by May 1, 2009.

2. Waste Water Treatment Plant Upgrades

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, action was taken to approve funding to address issues with the Waste Water Treatment Plants (WWTPs) at several prisons. The Governor's budget proposal and Finance Letter amendment to fund the Chuckawalla Valley State Prison/Ironwood State Prison WWTP project upgrade was held open pending receipt of a revision to this project in the May Revise.

Governor's Budget, Finance Letter, and May Revision. A Finance letter (dated May 14, 2008) proposes to switch funding for the rehabilitation of the Chuckawalla Valley State Prison/Ironwood State Prison WWTP from the General Fund to lease-revenue bonds. This will result in $25.3 million in savings in the budget year. The following is a summary of the project:

- **Chuckawalla Valley State Prison/Ironwood State Prison.** The Governor's budget proposal included $23 million General Fund for construction costs to rehabilitate the WWTP that serves both of these prisons. The scope of this project was changed considerably in 2007 to comply with requirements of the Colorado River Basin Regional Water Quality Control Board. The project now entails rehabilitating two trickling filters, paving portions of sludge drying beds, constructing a solid storage pad, and replacing pumps.

  The Finance Letter proposes to increase the amount provided for construction by $2.3 million General Fund. The increased costs reflect a more detailed scope and schedule obtained during the recent completion of preliminary plans.

  Funding this project will prevent future violations and the potential issuance of a Cease and Desist Order from the Colorado River Basin Regional Water Quality Control Board. This project was started in 2006 and $1.7 million has been appropriated by the Legislature in past budgets to plan for this project. The total estimated project cost is $27.1 million.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the Governor's budget and April Finance letter.
- Approve the May Revision proposal to shift the project to lease-revenue bonds.

3. *Coleman* - California Institution for Women

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, the budget and Finance Letter proposal to convert the east wing of the Women Support Care Unit at the California Institution for Women to a 20-bed Psychiatric Services Unit was held open. This project was held open pending additional information on whether this project would be constructed as proposed given the Receiver's proposed construction plans and justification from the department that the proposed project was the most cost effective.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) requests funding to convert the east wing of the Women Support Care Unit at the California Institution for Women to a 20-bed Psychiatric Services Unit (PSU). The Governor's budget proposal includes $601,000 General Fund for working drawings to build this new unit. The Finance Letter requests an additional $64,000 for preliminary plans and $82,000 for working drawings to complete the planning for this project. The increased costs are a result of adding additional office and treatment space to the project scope for staff to support the PSU.

The Legislature appropriated $423,000 General Fund to support this project in the 2007 Budget Act. The total estimated project cost is $7 million or $350,000 per bed to convert these beds. This project was court-ordered in March 2007 by the *Coleman* court.

Staff Comments. Staff recognizes that there continues to be considerable uncertainty regarding whether the department will pursue this project separate from the consolidated care centers being constructed by the Receiver. The department is currently developing a new bed plan that is due to the court on July 16, 2008. Nevertheless, this is a court ordered project and there continues to be uncertainty regarding whether the consolidated care centers will be constructed in the near future.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve this budget and Finance Letter proposal.
- Approve budget bill language to require these funds to revert if this project is no longer a part of the final *Coleman* mental health bed plan.

4. *Coleman* - Salinas Valley State Prison

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, the budget and Finance Letter proposal to add treatment and office space to convert an EOP administrative segregation unit to a 180-bed general population EOP unit and a project to convert unused dining room space into group therapy space was held open. These projects were held open pending additional information on whether these projects would be constructed as proposed given the Receiver's proposed construction plans.

Finance Letter. A Finance Letter (dated April 1, 2008) proposed funding to support two *Coleman*-related projects at the Salinas Valley State Prison. These projects include the following:
- **Treatment and Office Space to Support 180-Bed Enhanced Outpatient Program.** The Finance Letter includes $1.7 million General Fund to support preliminary planning efforts to add additional treatment and office space to convert an EOP administrative segregation unit to a 180-bed general population EOP unit. This EOP housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court. The EOP administrative segregation inmates currently in this facility will be transferred to a new 70-bed EOP administrative segregation facility that is being completed as part of the approved mental health bed plan.

The total estimated project cost is $21.8 million to support the treatment and office space needed to support these beds.

- **Intermediate Care Facility Treatment Space.** The Finance letter includes $399,000 General Fund to support preliminary plans and working drawings to convert existing unused dining room space into group therapy space to support the 128-bed Intermediate Care Facility at the prison. This ICF housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court.

  The total estimated project cost is $1.9 million to add the additional treatment and office space needed to support these beds.

Staff Comments. Staff finds that this project has the same issues as the project described above at the California Institution for Women.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve this Finance Letter proposal.
- Approve budget bill language to require these funds to revert if this project is no longer a part of the final *Coleman* mental health bed plan.

5. *Coleman* - Small Management Yards

Background. The CDCR is required, by a court order from the 1970s, to provide at least ten hours per week of out of cell exercise to inmates in administrative segregation. Historically, the department would accommodate this requirement by releasing 15 to 25 inmates at one time into an exercise yard. The department cites that the increased complexity of the administrative segregation inmate population has made it more difficult to release large groups of inmates without the threat of violence. Therefore, several years ago, the department started to construct small management yards.

The small management yards are approximately 150 square feet and can accommodate two inmates at one time. They are made of a metal fencing-type material and have a combination toilet and sink.

The judge overseeing the *Coleman* lawsuit issued an order on May 31, 2007, that the department submit a plan to provide sufficient small management yards to provide for at least ten hours per week of out of cell exercise to all inmates in administrative segregation. The order requires that the plan call for funding and construction of all yards by the end of the 2008-09 fiscal year. The plan also required provisions for better utilization of the existing small management yards and coordination with available staff to maximize yard usage.

The department estimates that as of October 2007, 1,162 small management yards were needed statewide for administrative segregation units. The department indicates that of the total needed (1) 578 had already been constructed, (2) 108 were under construction, (3) 149 were in the design phase, and (4) 327 still needed to be funded.

The 2007-08 Budget Act included $911,000 for preliminary plans and working drawings to add 179 small management yards at the six institutions, including 149 yards for administrative segregation units and 30 yards for the security housing units.

Governor's Budget, Finance Letter, and May Revision. The Governor's budget proposal includes $25.4 million General Fund to support the construction of 476 small management yards for administrative segregation units at 26 institutions. This includes funding for the design phase for 327 of the yards. The department does not plan to complete this project until January 2010. This is six months beyond what was ordered by the court.

In January 2008 the *Coleman* court rejected the department's plans to complete construction by January 2010 and ordered CDCR to take all steps necessary to complete construction by June 30, 2009. To comply with this court order, a Finance Letter (dated May 14, 2008) requests $8.6 million to augment the January budget proposal to expedite construction of these yards and attempt to build the additional yards by July 2009, consistent with the court order. The department is also requesting budget bill language to authorize the use of alternative project delivery methods to get these facilities built quickly.

A Finance Letter (dated April 1, 2008) proposes $1.6 million to support overtime pay for custody staff and lighting equipment to facilitate the use of yards during 3rd watch at eight institutions that cannot provide inmates in administrative segregation with the required 10 hours per week of out of cell time. This funding proposal includes $1.3 million for overtime costs and $300,000 for lighting equipment.

Staff Comments. Staff finds that the need for additional small management yards could be reduced if the department could determine strategies for reducing its administrative segregation unit population. Staff finds that some inmates continue to be held in administrative segregation for non-disciplinary reasons because the department lacks suitable housing placements for certain populations considered "special needs". The department has provided staff with information that shows they have made some progress in moving non-disciplinary inmates out of the administrative segregation unit. However, the department needs to continue to actively manage its administrative segregation population.

In addition, the court order requires the department to develop plans for better utilizing existing small management yards including utilizing the yards on third-watch. The department's support proposal will augment resources at eight institutions that are currently out of compliance with the required 10 hours per week of out of cell time.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal and Finance Letter to expedite construction of the small management yards to comply with the *Coleman* court.
- Approve budget bill language to expedite construction of these projects.
- Approve Finance Letter proposal to augment funding for the 3rd watch at eight institutions to comply with the *Coleman* court.

6. Statewide Project Planning

Previous Subcommittee Direction. At the May 14 meeting of the Subcommittee, the $6 million requested in a Finance Letter (dated April 1, 2008) for site investigation and real estate due diligence activities for potential re-entry facility properties was held open.

On May 8, 2008, the Corrections Standards Authority released its conditional awards of the phase I local jail bond money authorized in Chapter 7, Statutes of 2007 (AB 900, Solorio). The counties that have received a conditional award have agreed to work with the state to site a re-entry facility. The department has received more than 20 potential sites for re-entry facilities. These sites must be evaluated by the department to determine whether the sites are viable re-entry sites. Therefore, the jail bond awards are only conditional until the department's evaluation of the site viability is completed.

Given this recent development, the department has determined that the $6 million would be allocated to the following activities:

- $1.3 million to evaluate 13 sites included in the CSA jail bond proposals.
- $1.2 million to evaluate 12 additional sites not included in the CSA jail bond proposals.
- $2.5 million to enter real property purchase options for up to 10 sites.
- $1 million for other consultant services and program management.

Staff Comments. Staff finds that current law provides that preference be given in awarding local jail monies to counties that help the state to site a re-entry facility. Staff finds that this means more than just forwarding available sites to CDCR. Helping the state site a re-entry facility infers a partnership of working towards a common goal of getting a re-entry facility built so that more can be done to rehabilitate offenders returning to the community from state prison.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the $6 million for re-entry due diligence activities.
- Approve proposed budget bill language to authorize the acquisition of an option to purchase real property.
- Approve budget bill language to ensure that all $6 million is available for expenditure for three years.
- Approve trailer bill language that requires the counties to reimburse the state for due diligence expenditures for properties that have issues that preclude them from being used for re-entry if the issues should have been reasonably known by the county.

7. California Rehabilitation Center – Replace Dorms

Previous Subcommittee Meeting. At the May 14 meeting of the Subcommittee, the budget and Finance Letter proposals to support the construction and planning of a multi-phased project to replace all 28 wooden dorms at the California Rehabilitation Center (CRC) was held open. The Subcommittee requested additional information on the programming space needed at this facility to make it comply with standards set by AB 900.

The department has indicated to staff that they are in the process of evaluating how to increase utilization of existing program resources at CRC. As part of this evaluation they will be looking at what facilities are needed to increase rehabilitative programming at the CRC.

Governor's Budget and Finance Letter. The Governor's budget proposes $15.3 million General Fund to support the construction ($15 million) of four new 200-bed dorm housing units and the working drawings ($343,000) to construct three additional 200-bed dorm housing units at CRC. A Finance Letter (dated May 1, 2008) proposes to delete the General Fund support for construction of this project and instead switch funding for construction of this project to lease-revenue bond financing.

This multi-phase project was started in 1998 and to date the Legislature has appropriated $9 million to develop preliminary plans for all phases, working drawings for the construction of the first five dorm housing units, and construction of the first 200-bed dorm housing unit. The total estimated project cost is $67.7 million. This project will augment the department's bed capacity by 400 additional dorm beds.

Staff Comments. Staff finds that these facilities are badly deteriorated and pose health and safety issues for the inmates and staff. These dorm projects are similar to some of the projects proposed for funding under Chapter 7, Statutes of 2007 (AB 900, Solorio). Staff finds that ultimately this project will add 400 dorm beds to this facility. It is critical that the department evaluate the additional program space, visitor facility, health care space, etc., that it will need to serve this additional population.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal and Finance Letter proposal.
- Approve supplemental report language to require that the department develop a plan to improve rehabilitative programming space and other ancillary space at the California Rehabilitation Center to ensure compliance with AB 900 requirements. This report can be included in the department's Master Plan.

8. *Farrell* Related Capital Outlay

Previous Subcommittee Meeting. At the April 28 meeting of the Subcommittee, funding for various *Farrell*-related capital outlay projects was held open pending receipt of a facility master plan requested in the 2007 Budget Act. The department has indicated that the report requested in the 2007 Budget Act is still under development. The development of the plan has been further complicated by the recent announcement that the Receiver is considering using the Ventura Youth Correctional Facility to site a consolidated care center. (The Receiver has also announced that he is considering the closed Karl Holton Youth Facility at the Northern California Youth Correctional Center in Stockton.)

The department has made some progress in developing the facilities master plan. However, the plan has not been completed to date. The department has reported that it has developed a profile of the Department of Juvenile Justice (DJJ) population and has identified the facilities needed to serve this population and bring the state into compliance with the *Farrell* lawsuit. The department retained a consultant to develop a prototypical facility to meet the needs of the DJJ population. The department reports that this study resulted in plans to construct five new facilities that cost approximately $2.5 billion. Given the relatively high cost of these new facilities, the department is still evaluating the best option for improving DJJ facilities so that the department can improve its delivery of services and comply with the *Farrell* lawsuit.

Given the recent announcement by the Receiver, the department is reconsidering its initial plans for allocating modular units that were funded in the 2007 Budget Act. The department has three years to expend the $6.5 million included in the 2007 Budget Act for the purchase and installation of additional modular units to improve the program and treatment space available at the existing DJJ facilities.

The 2007 Budget Act also included $3.5 million for minor capital outlay projects. The department has forwarded information to staff on the projects it is pursuing and indicates that the Joint Legislative Budget Committee will receive notification of these projects in the near future. The projects being pursued with these funds include the following:

- **O.H. Close Youth Correctional Facility.** $385,000 to construct a medical examination room and medical office at the Inyo Living Unit.
- **Southern Youth Correctional Reception Center.** $164,000 to construct a medical examination room at the Marshall Living Unit.
- **Southern Youth Correctional Reception Center.** $385,000 to construct three medical offices within the outpatient housing unit in the Medical Wing of the Administration Building.
- **Southern Youth Correctional Reception Center.** $1.2 million to construct three medical offices at each of the following housing units, the Sutter High Risk Core Living Unit, the Cabrillo High Risk Core Living Unit, and the Pico Intake Program Living Unit.
- **N.A. Chaderjian Youth Correctional Facility.** $375,000 to construct a group recreation area for the Kern Living Unit to provide adequate recreational space for the residents in the Behavior Treatment Program.
- **O.H. Close Youth Correctional Facility.** $373,000 to construct a group recreation area for the Inyo Living Unit to provide adequate recreational space for the residents in the Behavior Treatment Program.
- **Preston Youth Correctional Facility.** $346,000 to construct a group recreation area for the Oak Living Unit to provide adequate recreation space for the residents in the Behavior Treatment Program.
- **Preston Youth Correctional Facility.** $317,000 to construct a group recreation area for the Redwood Living Unit to provide adequate recreation space for the residents in the Behavior Treatment Program. The total project cost for this project are $346,000, the additional $29,000 is supported by the department's general budget for minor capital outlay appropriated in the 2007 Budget Act.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) allocate $2 million General Fund to support capital outlay projects to help comply with the *Farrell* lawsuit. These projects are summarized below:

- **Sex Behavior Treatment Program Counseling Building #1.** The Governor's budget proposal includes $419,000 to finish construction of a counseling building at N.A.

Chaderjian Youth Correctional Facility that will provide group counseling space, individual counseling space, offices, and storage to support a Sex Behavior Treatment Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the building would exceed the minor capital outlay limit ($400,000). The department has already invested $303,000 in this project and construction is currently about half complete.

- **Sex Behavior Treatment Program Counseling Building #2.** The Governor's budget proposal includes $517,000 to finish construction of a counseling building at N.A. Chaderjian Youth Correctional Facility that will provide group counseling space, individual counseling space, offices, and storage to support a Sex Behavior Treatment Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the building would exceed the minor capital outlay limit. The department has already invested $219,000 in this project and construction is currently about half complete.
- **Behavior Treatment Program.** A Finance Letter requests $516,000 to finish remodeling the dayroom at the Inyo Living Unit at O.H. Close Youth Correctional Facility to add two education/treatment rooms to support a Behavior Treatment Program. This project was proposed as a minor capital outlay project in 2006, but during design it was determined that the project would exceed the minor capital outlay limit. The department has already invested $18,415 on the design of this project.
- **Specialized Counseling Program.** A Finance Letter requests $517,000 to finish expansion of the Humboldt Annex at O.H. Close Youth Correctional Facility to create a group counseling room, office space for clinical staff, and storage to support a Specialized Counseling Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the expansion would exceed the minor capital outlay limit. The department has already invested $235,425 on this project and construction is 22 percent complete.

Staff Comments. Staff finds that the *Farrell* reforms required the department to hire a significant number of new teachers and treatment staff to implement the remedial plans and there are treatment and office space shortages at all of the institutions. Staff finds that the department has made some progress in putting forward the facilities master plan required by the 2007 Budget Act. However, without a plan from the Administration, it is unclear how the state plans to remedy the problems with the existing facilities. The plan is critical for moving forward to improve DJJ facilities and comply with the *Farrell* lawsuit.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve the budget and Finance Letter proposals.

Other Issues

1. Correctional Officer Recruitment and Training

Previous Subcommittee Meeting. At the May 21 meeting of the Subcommittee, the budget proposal and May Revision proposal related to correctional officer recruitment and training was approved. Funding to expand the parole agent academy was held open pending other actions that may reduce the need for additional parole agents in the budget year.

Governor's Budget and May Revision. The Governor's budget and a Finance Letter (dated May 13, 2008) propose $3.1 million in additional funding to support 17 positions to double the size of the parole agent academy, thereby increasing the number of parole agents that can be trained to 480 in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal less $1,000 to ensure this item is in conference.

2. Parolee Employment Programs

Background. The CDCR currently invests in parolee employment programs. Numerous studies have shown that finding employment is an important factor to reducing the recidivism of offenders. Studies of the department's Parolee Employment Program have demonstrated that offenders that participate in the program are less likely, by 15 percent, to re-offend.

Governor's Budget. The Governor's budget contains approximately $20 million for various parolee employment program efforts. The Governor's budget also allocates $2.3 million in Workforce Investment Act Discretionary Funds to CDCR to support parolee employment programs.

LAO Recommendation. The LAO recommends that the state shift $9.3 million additional WIA Discretionary Funds to offset CDCR's parolee employment programs in the budget year. The expenditures of WIA funds are largely discretionary. Therefore, the LAO finds that the state's fiscal condition and the potential cost effectiveness of additional investments in parolee employment programs justifies shifting additional WIA funds to CDCR parolee employment programs. This action would save the state $9.3 million in General Fund.

Senate Budget Subcommittee #3 adopted the LAO's recommendation at a hearing on May 23. This action slightly reduced funding allocated to improve industries with statewide need like nursing and eliminated new initiatives called economic stimulus, green technology, and pre-apprenticeship.

Staff Recommendation. Staff recommends that the Subcommittee concur with the action taken by Senate Budget Subcommittee #3, thereby reducing CDCR General Fund expenditures by $9.3 million.

Receiver for Prison Medical Care

1. Supervising Registered Nurses

May Revision. The Department of Finance has put forward a proposal by the Receiver to add $12.5 million in the budget year to establish 138 additional supervising nurse positions to improve nursing care and correct a nurse supervisory staffing deficiency. The Receiver indicates that these positions will ensure accountability and efficiency in deploying the department's nursing resources to help meet several of the key goals documented in the Receiver's Strategic Plan. These goals include:

- Ensuring timely access to health care services.
- Establishing a prison medical program addressing the full continuum of health care services.
- Recruiting, training, and retaining a professional quality medical work force.

Staff Comments. Staff finds that the Receiver has developed metrics that he will track to determine the effectiveness of its nursing resources. The supervisory nurse positions are needed to direct the nursing resources effectively to ensure these metrics are met. Specifically, the metrics developed for the supervisory nurse positions are as follows:

- Reduce on call usage by 25 percent.
- Reduce overtime by 25 percent.
- Complete 100% of patient care plans on inpatient unit admissions within 24 hours.
- Reduce the number of specialty care clinic cancellations due to inadequate/no preparation by 25 percent.

Staff finds that these metrics are helpful in determining whether or not these resources are actually making a difference in improving medical care for inmates in the prison system.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision proposal.

2. Health Care Guarding and Transportation – Technical Adjustment

Previous Subcommittee Action. At the May 14 meeting of the Subcommittee, $89 million was approved to augment CDCR's budget for health care guarding and transportation.

May Revision. The Department of Finance has put forward a proposal by the Receiver to correct a technical error in the health care guarding and transportation proposal approved on May 14. This adjustment reduces the proposal approved on May 14 by $3.9 million to correct for a technical error.

Staff Recommendation. Staff recommends that the Subcommittee approve this technical adjustment.

3. Technical Scheduling Adjustment

May Revision. The CDCR has put forward a proposal to realign resources within the Receiver's medical care budget to move all field custody related resources from Program 50.10 (Medical Services—Adult) to Program 25 (Adult Corrections and Rehabilitation operations).

Staff Comments. The department indicates that under the prior Receiver all custody staff related to health care access were transferred to Program 50.10 to ensure that custody staff were not diverted to other prison functions. However, since then, the Department of Finance has established a separate health care item to track the Receiver's expenditures and this is no longer a concern. Furthermore, having custody resources scheduled in two different programs causes tracking problems that are difficult for the department to reconcile.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision proposal.

0250 Judicial Branch

1. Trial Court Funding – State Appropriations Limit (SAL) Growth Factor

Previous Subcommittee Meeting. At the April 9 meeting of the Subcommittee, no action was taken on whether to fund the SAL growth factor ($126 million) for the trial courts. The Governor's budget technically provides SAL to the trial courts, but the unallocated reduction would eliminate this augmentation and require the Judicial Branch to take a base cut to their budget.

The Judicial Branch has proposed as an alternative to the Governor's budget, a one-time redirection of its reserve funds to backfill the Governor's reduction and fully fund the SAL growth factor in the budget year. This option does not result in ongoing savings and would increase out-year expenditures from the General Fund.

The LAO has recommended, as an option for the Legislature, suspending SAL on a one-time basis. This option would result in ongoing savings to the General Fund.

May Revision. The May Revision resulted in a slight increase to SAL in the budget year, thereby increasing the funding that would be needed to provide SAL to the trial courts by $2.4 million. Therefore, the May Revision SAL adjustment for the trial courts is $128.6 million.

Staff Comments. Staff finds that the SAL adjustment is the primary mode in which growth in the courts and court expenditures are accommodated. Staff also recognizes that the courts currently have deficiencies in their base budget that cannot always be remedied given the competing priorities for each additional dollar provided to the courts. Nevertheless, the budget situation requires that some level of reduction be made to the Judicial Branch.

Staff finds that a growth factor that is less than SAL could be applied to provide the trial courts with some funding to accommodate growth in ongoing commitments like retirement.

If the trial courts were provided growth at the rate of the California Consumer Price Index (CPI) instead of SAL the courts would receive $70 million instead of the $129 million proposed in the May Revision.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve budget bill language to substitute the California CPI for the SAL in calculating the growth provided to the trial courts on a one-time basis for the budget year.
- Approve $70 million to provide the courts with growth based on the California CPI. This funding should be provided on a one-time basis from the trial court reserves.

2. Unallocated Reduction - Adjustments

Previous Subcommittee Actions. The Governor is proposing a 10 percent unallocated General Fund reduction to the budget for the Judicial Branch. This would result in a reduction of $246 million General Fund. At the April 9 meeting of this Subcommittee, actions were taken to make specific reductions to the budget for the Judicial Branch to help meet this reduction target. Additional actions were taken at the May 21 meeting of the Subcommittee. Collectively these actions (excluding court security and increased civil filing fees) have reduced the Governor's budget for the Judicial Branch by $97 million.

Staff Comments. Staff finds that the Subcommittee took an action on April 9 to increase civil filing fees and reduce General Fund support by $21 million. Since that time, amendments have been taken to legislation to finance new trial court facilities (SB 1407, Perata) that would be supported by the same filing fees.

Furthermore, staff finds that the trial courts currently have considerable funds in their reserves that could be used on a one-time basis to fund court activities. The LAO estimates that the trial courts have over $590 million in their reserve funds and that $355 million is not obligated. However, staff recognizes that using the court reserves to backfill General fund reductions to the trial courts is only a one-time solution.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Rescind prior action to increase civil filing fees and reduce General Fund by a like amount.
- Approve a $23 million unallocated General Fund reduction to the trial courts base budget. This reduction should be backfilled with one-time expenditures from the trial court reserves.
- Eliminate the $246 million unallocated reduction because the actions in this item, the previous item and at prior hearings result in a reduction to the courts of $246 million.

3. Subordinate Judicial Officers

Background. Chapter 722, Statutes of 2007 (AB 159, Jones) authorized the conversion of 162 subordinate judicial officer positions to judgeships as the posts become vacant. This legislation capped the number of conversions that could occur in a single fiscal year to 16. The subordinate judicial officers eligible for conversion to judgeships are located in the following counties:

- Alameda – 6
- Contra Costa – 6
- El Dorado – 2
- Fresno – 3
- Imperial – 1
- Kern – 2
- Los Angeles – 78
- Marin – 2
- Merced – 2
- Napa – 1
- Orange – 14
- Placer – 1
- Riverside – 6
- Sacramento – 5
- San Diego – 7
- San Francisco – 9
- San Luis Obispo – 2
- San Mateo – 2
- Santa Barbara – 2
- Santa Cruz – 1
- Solano – 3
- Sonoma – 2
- Stanislaus – 1
- Tulare – 2
- Yolo - 2

Current law requires the ratification of these conversions annually. Since the subordinate judicial officers are generally doing the work of a judge no additional funding is required to support these conversions.

Governor's Budget. The Governor's budget does not include language to ratify the conversion of 16 subordinate judicial officers to judgeships in the budget year. The AOC has suggested budget bill language that would accomplish ratification of these positions.

Staff Recommendation. Staff recommends that the Subcommittee approve the following budget bill language:

- *X. The Judicial Council is authorized to convert up to 16 subordinate judicial officer positions to judgeships in fiscal year 2008-2009 in the manner and pursuant to the authority described in Government Code section 69615(b)(1)(B).*

4. Administrative Office of the Courts - Cost Recovery

Background. Staff has asked the AOC to review its practices for charging trial courts for administrative services that directly support their operations. The current system does not differentiate support services that are consistent among courts from direct support to augment trial court activities at specific courts. In response the AOC has reviewed it practices and believes that there are changes that can be made to current practices to more appropriately assign costs among the AOC and the trial courts and improve transparency.

The AOC has agreed to complete a review and develop a budget proposal for 2009-10 to adjust the current inconsistencies and improve transparency of court expenditures.

Staff Comments. Staff finds that current budget bill language limits the amount of funding that the AOC can recover from the Trial Court Improvement Fund and the Trial Court Trust Fund for administrative costs that support the trial courts. Budget bill language limits the funding to $18.7

million from the Trial Court Improvement Fund and $11.3 million from the Trial Court Trust Fund. Current budget bill language allows AOC to augment these amounts up to 10 percent if the Legislature is notified. As mentioned above, there are considerable inconsistencies in how the AOC reports and tracks administrative costs that support all trial courts versus more direct support it provides to specific courts. The AOC has indicated to staff that it is working on clarifying its methodologies to make its reporting more consistent and transparent. The AOC finds that the 10 percent limit to adjusting these funds may preclude the accurate reflection of the AOC's administrative costs.

Staff Recommendation. Staff recommends that the Subcommittee revise the budget bill language to eliminate the 10 percent limit for adjusting the administrative costs the AOC can recover from the Trial Court Improvement Fund and the Trial Court Trust Fund. The AOC would still require legislative notification if it planned on exceeding the statutory limits set in the budget bill language. The proposed language is as follows:

0250-001-0159—For support of Judicial Branch, payable from the Trial Court Improvement Fund................
Provisions:
1. Notwithstanding any other provision of law, upon approval by the Administrative Director of the Courts, the Controller shall increase this item up to $18,673,000 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts.

2. Notwithstanding any other provision of law, upon approval by the Administrative Director 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 State 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 $1,867,300~~ this item above $18,673,000 for recovery of cost for administrative services provided to the trial courts by the Administrative Office of the Courts. 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 chairpersons of the committees 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—For local assistance, Judicial Branch, payable from the Trial Court Trust Fund............
Provisions:
8. Upon approval by the Administrative Director of the Courts, the Controller shall transfer up to $11,274,000 to Item 0250-001-0932 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts.

9.Upon approval by the Administrative Director 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 State 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 $1,127,400~~ above $11,274,000 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts. Any augmentations 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 chairpersons of the committees 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.

Attachment A

CDCR Population Estimate

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Adult Institutions							**Recommendation**
Yard Conversions - Level Change: These changes are due to the conversion of Facility C at Centinela State Prison from Level IV to Level III.	98	0	-54	-617	**44**	**-617**	Approve as budgeted.
Yard Conversions - Mission Change: These changes are primarily due to the need to activate additional Administrative Segregation Units, Security Housing Units, and Administrative Segregation Units for mentally ill inmates in the Enhanced Outpatient Program.	1,440	2,723	1,048	5,877	**2,488**	**8,600**	Approve as budgeted.
Yard Conversions - Gender Change: These changes are due to the conversion of housing units at the California Rehabilitation Center from female inmates to male inmates.	649	788	0	0	**649**	**788**	Approve as budgeted.
Housing Unit Activations and Deactivations: Given the expected decline in the inmate population the department does not plan in its Institution Activation Schedule to activate beds in gyms and dayrooms as previously planned. This will result in the need for fewer staff and budget savings.	-5,414	11,195	-12,811	-80,091	**-18,225**	**-68,896**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Unallocated Bed Adjustment: This adjustment reconciles the Institution Activation Schedule, which is based on the number of beds, to the projected inmate population. Because the population projections are slightly higher than the beds planned for in the Institution Activation Schedule there is a need to adjust the funding removed from the budget in the Housing Unit Activations and Deactivations item (above).	22,398	84,485	-17,790	12,980	**4,608**	**97,465**	Approve as budgeted.
Other Ratio Staff for Institutions: Given the expected decline in the inmate population the department needs fewer other ratio staff, including counselors, dentists, physicians, office assistants, etc.	-450	-4,382	-3,232	-14,180	**-3,682**	**-18,562**	Approve as budgeted.
General Operating Expenses: Given the expected decline in the inmate population the department does not need additional funding for inmate related expenses, including food, clothing, utilities, and programs. *(Many of these adjustments are nominal and do not reflect the actual marginal cost of providing these items.)*	-409	-4,370	-4,036	-16,930	**-4,445**	**-21,300**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Health Care Operating Expenses: Given the expected decline in the inmate population the department does not need additional funding for inmate related health care expenses, including contract medical and pharmaceuticals. *(This is how the department has historically budgeted for these expenditures, but given the improvements demanded by the federal courts and the court appointed Receiver additional funding has been requested outside of this nominal amount that does not reflect the marginal cost of providing these services.)*	-219	-2,233	-1,654	-7,239	**-1,873**	**-9,472**	Approve as budgeted.
Inmate Welfare Fund Operating Expenses: Given the expected decline in the inmate population the department has reduced budgeted expenditures from the Inmate Welfare Fund since canteen expenditures are directly related to the number of inmates in state prison.	-45	-459	-340	-1,488	**-385**	**-1,947**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Staffing for Mental Health Population: This funding category is used to adjust baseline staffing to reflect the needs of the mentally ill inmate population, including inmates in the Enhanced Outpatient Program and inmates in the Clinical Correctional Case Management Program. The adjustment is being made to correct budgeting errors from prior budgets. *(This item does not reflect the new staffing requirements to implement the Revised Program Guide being implemented to comply with the Coleman lawsuit.)*	-14,654	-14,660	0	0	**-14,654**	**-14,660**	Approve as budgeted.
Mental Health Crisis Bed Facility: Additional nursing staff needed to license the 50-bed licensed Mental Health Crisis Bed facility at the California Medical Facility authorized by the 2007 Budget Act. This facility helps the state comply with the *Coleman* lawsuit.	0	659	0	0	**0**	**659**	Approve as budgeted.
Psychiatric Services Unit (PSU) Expansion: Additional staffing and cell renovation to add 64 additional PSU beds at the California State Prison, Sacramento.	2,976	4,705	0	0	**2,976**	**4,705**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Women's Condemned Row Exercise Yard: The condemned women at the Central California Women's Facility currently have to share the exercise yard with the segregation unit. This has severely limited the amount of yard time available to the condemned population. A recent lawsuit requires that Grade A (best behavior) condemned inmates have access to the same privileges as other inmates. An additional yard for the condemned inmates has been constructed to provide additional yard time and this proposal would provide staffing to support the new exercise yard for the 15 condemned women at the Central California Women's Facility.	71	304	0	0	**71**	**304**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Bonding Mothers with Babies Prison Nursery Program: This program provides up to 16 pregnant inmates with the opportunity to stay with their infants while incarcerated. The women eligible for this program must be in their second or third trimester of pregnancy with a release date from 9-15 months after their expected date of delivery. This program provides wrap-around services for the women and infants, including substance abuse treatment, parenting classes, and on-site pediatric services. The renovation of the nursery for this program was funded by private donors and services are provided by a collaboration of organizations. The department has $334,000 in its base budget to support this program (funded with reducing recidivism money in 2007-08.) This program is located at the California Institution for Women. The program is expected to be activated in May 2008.	167	207	-161	0	**6**	**207**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
***Valdivia* Case Records Positions:** 1 case record position is provided for every 1,364 parole holds. The caseload in the budget year is projected to decline resulting in the need for fewer case records analysts to support this workload.	0	1,863	0	-725	**0**	**1,138**	Approve as budgeted.
Security Housing Unit (SHU) Conversion at CSP, Sacramento: Proposal to convert a general population unit at SAC to accommodate the transfer of HIV-positive SHU inmates that were previously held at CSP, Corcoran. This transfer is being made because of the Valley Fever risk at Corcoran. Corcoran will continue to operate the vacated HIV-SHU as a regular SHU.	0	0	522	2,664	**522**	**2,664**	Approve as budgeted.
Institutions Subtotal	***6,608***	***80,825***	***-38,508***	***-99,749***	***-31,900***	***-18,924***	

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Contract Facilities							
In-State Private and Public-Owned Prison Facilities: This item addresses changes in activation of in-state prison facilities that are both privately and publicly owned. The budget year includes $12.8 million to support a rate increase for three private facilities with expired contracts. The budget year also includes funding to support 10 additional beds at the Lassen CCF. There are also numerous adjustments and delays in the current year related to the Adelanto and Leo Chesney facilities.	428	13,833	-400	297	**28**	**14,130**	Approve as budgeted.
Out of State Private Prison Facilities: The department continues to ramp up contracts with out of state private prison facilities. The Governor's budget includes a new contract for 3,000 beds at a private prison in Eloy, Arizona. This item also includes additional staffing to support the out of state contracts, including increased costs related to the management of the contracts, transportation of inmates and property, and pre-transfer screening process.	-571	14,514	-8,804	-3,516	**-9,375**	**10,998**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Ratio Staff for Out of State Beds: This item provides the department with the correctional counselor staffing and other support staffing that is inmate population-driven and needed to support the out-of-state contracts.	0	3,928	-349	0	**-349**	**3,928**	Approve as budgeted.
Contract Beds Adjustment: This adjustment takes into account the difference between the inmate population and the contract beds activation schedules. Since there were delays in implementing some of the contracts in the current year there is increased institution expenditures in the current year. In the budget year additional contracts are expected to activate, thereby reducing institution expenditures.	-3,247	-67,415	5,341	-10,549	**2,094**	**-77,964**	Approve as budgeted.
Ratio Staff for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	214	0	-214	0	**0**	**0**	Approve as budgeted.
General Operating Expenses for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	236	0	-236	0	**0**	**0**	Approve as budgeted.
Health Care Operating Expenses for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	110	0	-110	0	**0**	**0**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Leased Jail Bed ADP Adjustment: This adjustment takes into account the difference between the inmate population and the leased jail beds activation schedule. The average daily population in the contract jail beds is less than the number of beds under contract for the current year resulting in increased institution expenditures in the current year.	1,542	0	4,359	0	**5,901**	**0**	Approve as budgeted.
Contract Subtotal	***-1,288***	***-35,140***	***-413***	***-13,768***	***-1,701***	***-48,908***	
Subtotal Adult Facilities	***5,320***	***45,685***	***-38,921***	***-113,517***	***-33,601***	***-67,832***	
Adult Parole							
Felon (70:1) Supervision: The felon parole population is projected to decline in the budget year, thereby reducing the funding needed for parole supervision. However, offsetting this decline in population is an upward adjustment in the budget year to account for the high-control parolees-at-large that had previously been inadvertently excluded when calculating the funding needed to supervise felon parolees.	8,599	17,354	1,418	-6,082	**10,017**	**11,272**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
2nd Striker (40:1) Supervision: The 2nd striker parole population is projected to decline in the current year and budget year, thereby reducing the funding needed for parole supervision.	1,366	1,575	-7,719	-13,156	**-6,353**	**-11,581**	Approve as budgeted.
Enhanced Outpatient Program (40:1) Supervision: The EOP parole population is projected to decline in the current year and budget year, thereby reducing the funding needed for parole supervision. *This item only funds parole supervision and does not fund other services to support this population.*	976	1,393	-365	-242	**611**	**1,151**	Approve as budgeted.
Sex Offender (40:1, passive GPS) Supervision: The non-high risk sex offender population is projected to decline slightly in the current and budget years. This funding includes the cost of the GPS unit, which is $7.50 per unit per day.	0	0	-4,459	-482	**-4,459**	**-482**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
High Risk Sex Offender (20:1, active GPS) Supervision: The high-risk sex offender population is projected to decline in the current and budget years. This funding includes the cost of the GPS unit, which is $11 per unit per day. Starting in the budget year $500 per parolee is provided for two polygraph tests annually and $14,000 per parolee for treatment services.	0	0	-5,655	-11,172	**-5,655**	**-11,172**	Approve as budgeted.
Non-Felon (63.4:1) Supervision: The non-felon parole population is projected to decline slightly in the current and budget years, thereby reducing the funding needed for parole supervision.	-183	-347	-97	-514	**-280**	**-861**	Approve as budgeted.
US ICE Pending Deportation (500:1): The foreign national parole population pending deportation is projected to increase slightly in the current and budget years, thereby increasing funding needed for parole case monitoring.	371	253	172	470	**543**	**723**	Approve as budgeted.
US ICE Deported (1,200:1 - clerical): Parole also does minimal monitoring of cases that have been deported. These cases are expected to be slightly fewer in the current and budget years.	-21	-1	-35	-76	**-56**	**-77**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Service Center Supervision (57.1:1): A parole officer is assigned to parolees living in parole service centers and restitution centers, which are residential centers that provide wrap around treatment services. The average daily population in these centers is slightly less in the current year.	-271	-59	0	59	**-271**	**0**	Approve as budgeted.
Parole Service Center Contracts: This parole service centers and restitution centers provide parole with residential services that provide wrap around treatment services. The department indicates that it has not been able to contract for the full 1,140 beds due to instability in the funding and lack of local support for siting these facilities.	-6,353	0	0	0	**-6,353**	**0**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Outpatient Clinics - EOP Services: This item provides ratio driven clinical staff and funding for medication and treatment services for the EOP parole population. *The staffing for the EOP population is less than the CCCMS population, because the assumption is that the offender will be transferred to county care after 90 days. The pharmaceutical budget is also no different from the CCCMS, which is not consistent with actual costs related to this population. This does not include the $6 million in additional funding provided in the budget to support wrap-around services for this population.*	644	946	113	190	**757**	**1,136**	Approve as budgeted.
Parole Outpatient Clinics - CCCMS Services: This item provides ratio driven clinical staff and funding for medication and treatment services for the CCCMS parole population. The population is expected to be slightly lower than previously projected for the budget year.	2,168	4,865	37	-897	**2,205**	**3,968**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Parole Clerical Adjustment: Funding for the supervision also includes ratio positions for clerical support. However, given the significant shortage in base staffing for clerical support a reduction in ratio-driven positions is added back to avoid exacerbating existing clerical support.	194	95	0	0	**194**	**95**	Approve as budgeted.
Parole Leased Jail Bed Adjustment: This item adjusts the contract payments to three county jails (Sacramento, Alameda, and San Francisco) for holding parolees. The current year adjustment is due to low utilization of the San Francisco contract. *The Governor's May Revision proposal would eliminate these contracts.*	0	1,913	-7,636	0	**-7,636**	**1,913**	Approve as budgeted.
Parole Subtotal	***7,490***	***27,987***	***-24,226***	***-31,902***	***-16,736***	***-3,915***	
Board of Parole Hearings							
***Valdivia* Case Records:** Additional staff are needed to conduct parole revocation hearings within the timeframe and requirements of the *Valdivia* lawsuit. The number of parole revocation hearings are expected to be lower than previously projected.	1,223	2,291	445	-1,050	**1,668**	**1,241**	Approve as budgeted.
Board of Parole Hearing Subtotal	***1,223***	***2,291***	***445***	***-1,050***	***1,668***	***1,241***	

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Other Adult							
Personnel Services Specialists: For every 180 new CDCR positions added, CDCR requests 1 Personnel Services Specialist I to handle personnel-related workload. *This calculation does not include the positions added by the Receiver.*	0	0	129	103	**129**	**103**	Approve as budgeted.
Health Records Technicians: For every 1 percent growth in CDCR's inmate population, CDCR requests 1.15 Health Record Technicians to address projected additional health records workload. *This item is a placeholder and is expected to be directly impacted by the Receiver.*	-81	29	0	0	**-81**	**29**	Approve as budgeted.
Move Female Civil Addicts from CRC to CIW: All female civil addicts housed at CRC have been transferred to CIW to provide additional space at CRC for male inmates and civil addicts and to consolidate all female offenders at female-only institutions. This provides CIW with the necessary staff to provide additional urinalysis and other services	0	734	0	0	**0**	**734**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Reform Technical Adjustment: This technical adjustment is made to add back the savings projected in the 2007 Budget Act related to the implementation of the 13-month clean time parole policy. This adjustment is needed to avoid reducing CDCR's budget twice for the same action because the impact of this policy change is now reflected in the lower population trends.	0	0	31,205	58,264	**31,205**	**58,264**	Approve as budgeted.
Other Adult Subtotal	***-81***	***763***	***31,334***	***58,367***	***31,253***	***59,130***	
Adult Workload Total*	***13,952***	***76,726***	***-31,368***	***-88,102***	***-17,416***	***-11,376***	
*** This total is what the administration refers to as the fiscal impact of population growth or changes to existing mix of population.**							
Adult Policy Adjustment Category							
Drug Treatment Furlough: This program enables certain non-violent, non serious inmates to transfer to residential drug treatment 120 days prior to their release date to accelerate treatment and reintegration back into the community. The department has been budgeted for 426 beds but has increased utilization of this program and plans on funding 500 beds in the budget year. The department's current average daily population in drug treatment furlough is 489.	0	0	0	236	**0**	**236**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
In Custody Drug Treatment Program: This program was ordered by the *Valdivia* lawsuit to provide 1,800 beds in the community to serve as alternative sanctions for parole violators. The population estimate assumes that 85 percent of these will be established in the budget year. The program is designed in three phases. Phase I is 60 days in custody, phase II is an additional 30 days in custody and phase III is an additional 60 days in custody. The department assumes 30 percent of offenders will need phase III services. This funding is net of the institution savings from not sending these inmates back to prison.	0	0	6,465	8,826	**6,465**	**8,826**	Approve less $6,826 in the BY to correct a technical error.
Northern California Re-Entry Facility: This funding is for the pre-activation and activation of the first re-entry facility located at the old Northern California Women's Facility in San Joaquin County. The facility will be activated in May 2009 and the first inmates are expected to arrive in July 2009.	727	1,131	-646	11,701	**81**	**12,832**	Approve as budgeted.
Northern California Re-entry Facility: This funding is from the Inmate Welfare Fund and will support canteen operations at the new reentry facility.	0	0	0	24	**0**	**24**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
San Francisco Re-Entry Project: The department is planning to contract with San Francisco County to target 48 non-violent state prison inmates to participate in re-entry programming in the San Francisco County Jail in San Bruno. This project would also include the provision of re-entry programming and support once the inmates are paroled.	0	2,516	0	-129	**0**	**2,387**	Approve as budgeted.
Female Reform Beds: The department is planning on implementing Phase II of a project to place up to 2,000 low-level female offenders in smaller community correctional centers closer to their homes. The department is also planning a 150-bed expansion to the existing Female Offender Treatment and Employment Program and activating 575 multi-service center beds for female parolees. The department is also planning to contract for 750 beds in Sober Living Environments, which are smaller facilities that would provide a step-down environment for female parolees that complete residential drug treatment.	2,927	30,407	-2,664	-505	**263**	**29,902**	Approve as budgeted.
Misc. Subtotal	***3,654***	***34,054***	***3,155***	***20,153***	***6,809***	***54,207***	
Local Assistance							

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Daily Jail Rate Adjustment - The Governor's May Revision proposes to keep the daily jail rate at its current level. The Governor had included an increase in the January budget proposal. This adjustment will provide $44 million to reimburse locals for parolee detention. *These funds would be significantly reduced if the Governor's summary parole proposal was implemented.*	0	0	0	-2,691	**0**	**-2,691**	Approve as budgeted.
County Charges. Funding to reimburse various county claims for medical, security, revocation hearings, and daily jail bed expenditures. This increase includes $1.3 million in one-time funding to pay claims expected in the current year.	0	0	0	2,108	**0**	**2,108**	Approve as budgeted.
Local Assistance Subtotal	***0***	***0***	***0***	***-583***	***0***	***-583***	
Adult General Fund Total	***17,606***	***110,780***	***-28,213***	***-68,532***	***-10,607***	***42,248***	

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Part B
Wednesday, June 4, 2008
OUTCOMES

(Consultant - Keely Martin Bosler)

State Administration—General Government—Judiciary—Transportation

5225 California Department of Corrections and Rehabilitation

Corrections Population Reform

Action. Held open the Governor's summary parole proposal, early release proposal, and associated budget savings.

Adult Population Estimate

Action.

- Approved the population estimate included in Attachment A. There was no need to take an additional $1,000 to put it in conference because the attachment reduced the funding for the In-Custody Drug Treatment Program by $6.8 million to reflect a technical adjustment agreed upon by the department. **This action saves $6.8 million over the Governor's budget proposal and May Revision.**

Vote. 3-0

1. Out-of-State Beds

Action.

- Approved the Finance Letter proposal.
- Approved supplemental report language to describe all positions and expenditures that are part of the out-of-state program. The purpose of this language is to track the positions and expenditures associated with this program because it sunsets in three years.

Vote. 3-0

2. In-Custody Drug Treatment Program Beds—Parole Violators

Action.

- Approved the budget proposal to oversee the In-Custody Drug Treatment Program.
- Approved budget bill language to allow for a transfer between programs only after notification of the Joint Legislative Budget Committee including information about actual utilization of the program by parole region.

Vote. 2-1 (Harman)

3. Substance Abuse Program – Aftercare Services

Action.

- Approved budget bill language that requires the department to ensure consistent reporting of aftercare utilization and require that this information be reported to the Legislature in the January 2009 budget proposal.

Vote. 3-0

4. Re-Entry Facilities

Action.

- Approved budget bill language that requires that the CSA finalize its process for awarding the jail bond money before the re-entry facility at NCRF can be activated.
- Approved supplemental report language to require the department to submit its model program plans for the re-entry facilities and a specific program plan for NCRF by January 2009.

Vote. 3-0

5. Female Bed Plan

Action. No additional action needed.

Division of Correctional Health Care Services

1. *Coleman* Mental Health Staffing

Action.

- Approved the Finance Letter less three positions.
- Approved a Reimbursement Item to provide the Department of Mental Health with three positions (one psychologist, one analytical position, and one support position) funded from CDCR salary savings. These positions should support a collaborative effort to plan for the Department of Mental Health to provide acute care to mentally ill inmates within CDCR institutions, consistent with their core mission.

Vote. 3-0

2. Inmate Dental Services Program

Action.

- Approved the budget proposal and conform to the Assembly's action that reduced this funding to reflect salary savings.

- Approved supplemental report language to require that the department evaluate its current dental class code matrix and develop strategies for reducing program exclusions for inmates with outstanding dental issues that are not life threatening.

Vote. 3-0

Capital Outlay

1. Minor Capital Outlay

Action.

- Approved the $5.5 million in projects described above.
- Approved the $2 million for other minor capital outlay projects.
- Approved budget bill language to require reporting to the Joint Legislative Budget Committee on the projects to be funded with the remaining $2 million.
- Approved budget bill language to require a report to the Legislature on the reconciliation of minor capital outlay projects by May 1, 2009.

Vote. 3-0

2. Waste Water Treatment Plant Upgrades

Action.

- Approved the Governor's budget and April Finance letter.
- Approved the May Revision proposal to shift the project to lease-revenue bonds.

Vote. 3-0

3. *Coleman* - California Institution for Women

Action.

- Approved this budget and Finance Letter proposal.
- Approved budget bill language to require these funds to revert if this project is no longer a part of the final *Coleman* mental health bed plan.

Vote. 3-0

4. *Coleman* - Salinas Valley State Prison

Action.

- Approved this Finance Letter proposal.

- Approved budget bill language to require these funds to revert if this project is no longer a part of the final *Coleman* mental health bed plan.

Vote. 3-0

5. *Coleman* - Small Management Yards

Action.

- Approved the budget proposal and Finance Letter to expedite construction of the small management yards to comply with the *Coleman* court.
- Approved budget bill language to expedite construction of these projects.
- Approved Finance Letter proposal to augment funding for the 3rd watch at eight institutions to comply with the *Coleman* court.

Vote. 3-0

6. Statewide Project Planning

Action.

- Approved the $6 million for re-entry due diligence activities.
- Approved proposed budget bill language to authorize the acquisition of an option to purchase real property.
- Approved budget bill language to ensure that all $6 million is available for expenditure for three years.
- Approved trailer bill language that requires the counties to reimburse the state for due diligence expenditures for properties that have issues that preclude them from being used for re-entry if the issues should have been reasonably known by the county.

Vote. 3-0

7. California Rehabilitation Center – Replace Dorms

Action.

- Approved the budget proposal and Finance Letter proposal.
- Approved supplemental report language to require that the department develop a plan to improve rehabilitative programming space and other ancillary space at the California Rehabilitation Center to ensure compliance with AB 900 requirements. This report can be included in the department's Master Plan.

Vote. 3-0

8. *Farrell* Related Capital Outlay

Action.

- Approved the budget and Finance Letter proposals.

Vote. 3-0

Other Issues

1. Correctional Officer Recruitment and Training

Action. Approved the budget proposal – the Subcommittee intended to put this item in conference as part of the larger corrections reform package.

Vote. 3-0

2. Parolee Employment Programs

Action. Concurred with the action taken by Senate Budget Subcommittee #3 to shift WIA funds to parolee employment programs, thereby reducing CDCR General Fund expenditures by $9.3 million. **This action saves the state $9.3 million above the Governor's budget and May Revision.**

Vote. 3-0

Prison Industry Authority

Action. This item was not on the agenda. In order to avoid potential shut down of important PIA programs due to other budget reductions in other areas of the budget, the Subcommittee adopted trailer bill language to allow the Prison Industry Authority (PIA) to sell its products to statutorily recognized non-for-profit organizations in addition to state agencies.

Vote. 3-0

Receiver for Prison Medical Care

1. Supervising Registered Nurses

Action. Approved this May Revision proposal.

Vote. 3-0

2. Health Care Guarding and Transportation – Technical Adjustment

Action. No action needed – already approved this item at the May 21 meeting of the Subcommittee.

3. Technical Scheduling Adjustment

Action. Approved this May Revision proposal.

Vote. 3-0

0250 Judicial Branch

1. Trial Court Funding – State Appropriations Limit (SAL) Growth Factor

Action.

- Approved budget bill language to substitute the California CPI for the SAL in calculating the growth provided to the trial courts on a one-time basis for the budget year.
- Approved $70 million to provide the courts with growth based on the California CPI. This funding should be provided on a one-time basis from the trial court reserves.

Vote. 3-0

2. Unallocated Reduction - Adjustments

Action.

- Rescinded prior action to increase civil filing fees and reduce General Fund by a like amount.
- Approved a $23 million unallocated General Fund reduction to the trial courts base budget. This reduction should be backfilled with one-time expenditures from the trial court reserves.
- Eliminated the $246 million unallocated reduction because the actions in this item, the previous item and at prior hearings result in a reduction to the courts of $246 million.

Vote. 3-0

3. Subordinate Judicial Officers

Action. Approved the following budget bill language:

- *X. The Judicial Council is authorized to convert up to 16 subordinate judicial officer positions to judgeships in fiscal year 2008-2009 in the manner and pursuant to the authority described in Government Code section 69615(b)(1)(B).*

Vote. 3-0

4. Administrative Office of the Courts - Cost Recovery

Action. Staff recommends that the Subcommittee Adopted the following revised budget bill language:

0250-001-0159—For support of Judicial Branch, payable from the Trial Court Improvement Fund................
Provisions:
1. Notwithstanding any other provision of law, upon approval by the Administrative Director of the Courts, the Controller shall increase this item up to $18,673,000 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts.

2. Notwithstanding any other provision of law, upon approval by the Administrative Director 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 State 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 $1,867,300~~ this item above $18,673,000 for recovery of cost for administrative services provided to the trial courts by the Administrative Office of the Courts. 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 chairpersons of the committees 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—For local assistance, Judicial Branch, payable from the Trial Court Trust Fund............
Provisions:
8. Upon approval by the Administrative Director of the Courts, the Controller shall transfer up to $11,274,000 to Item 0250-001-0932 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts.

9.Upon approval by the Administrative Director 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 State 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 $1,127,400~~ above $11,274,000 for recovery of costs for administrative services provided to the trial courts by the Administrative Office of the Courts. Any augmentations 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 chairpersons of the committees 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.

Vote. 3-0

5. Court Case Management System

Action. This item was not on the agenda. The Subcommittee approved supplemental report language to require that the AOC prepare a report for the Legislature due January 10, 2009 to update the Legislature on the implementation of the Court Case Management System.

Vote. 3-0

Attachment A

CDCR Population Estimate

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Adult Institutions							**Recommendation**
Yard Conversions - Level Change: These changes are due to the conversion of Facility C at Centinela State Prison from Level IV to Level III.	98	0	-54	-617	**44**	**-617**	Approve as budgeted.
Yard Conversions - Mission Change: These changes are primarily due to the need to activate additional Administrative Segregation Units, Security Housing Units, and Administrative Segregation Units for mentally ill inmates in the Enhanced Outpatient Program.	1,440	2,723	1,048	5,877	**2,488**	**8,600**	Approve as budgeted.
Yard Conversions - Gender Change: These changes are due to the conversion of housing units at the California Rehabilitation Center from female inmates to male inmates.	649	788	0	0	**649**	**788**	Approve as budgeted.
Housing Unit Activations and Deactivations: Given the expected decline in the inmate population the department does not plan in its Institution Activation Schedule to activate beds in gyms and dayrooms as previously planned. This will result in the need for fewer staff and budget savings.	-5,414	11,195	-12,811	-80,091	**-18,225**	**-68,896**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Unallocated Bed Adjustment: This adjustment reconciles the Institution Activation Schedule, which is based on the number of beds, to the projected inmate population. Because the population projections are slightly higher than the beds planned for in the Institution Activation Schedule there is a need to adjust the funding removed from the budget in the Housing Unit Activations and Deactivations item (above).	22,398	84,485	-17,790	12,980	**4,608**	**97,465**	Approve as budgeted.
Other Ratio Staff for Institutions: Given the expected decline in the inmate population the department needs fewer other ratio staff, including counselors, dentists, physicians, office assistants, etc.	-450	-4,382	-3,232	-14,180	**-3,682**	**-18,562**	Approve as budgeted.
General Operating Expenses: Given the expected decline in the inmate population the department does not need additional funding for inmate related expenses, including food, clothing, utilities, and programs. *(Many of these adjustments are nominal and do not reflect the actual marginal cost of providing these items.)*	-409	-4,370	-4,036	-16,930	**-4,445**	**-21,300**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Health Care Operating Expenses: Given the expected decline in the inmate population the department does not need additional funding for inmate related health care expenses, including contract medical and pharmaceuticals. *(This is how the department has historically budgeted for these expenditures, but given the improvements demanded by the federal courts and the court appointed Receiver additional funding has been requested outside of this nominal amount that does not reflect the marginal cost of providing these services.)*	-219	-2,233	-1,654	-7,239	**-1,873**	**-9,472**	Approve as budgeted.
Inmate Welfare Fund Operating Expenses: Given the expected decline in the inmate population the department has reduced budgeted expenditures from the Inmate Welfare Fund since canteen expenditures are directly related to the number of inmates in state prison.	-45	-459	-340	-1,488	**-385**	**-1,947**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Staffing for Mental Health Population: This funding category is used to adjust baseline staffing to reflect the needs of the mentally ill inmate population, including inmates in the Enhanced Outpatient Program and inmates in the Clinical Correctional Case Management Program. The adjustment is being made to correct budgeting errors from prior budgets. *(This item does not reflect the new staffing requirements to implement the Revised Program Guide being implemented to comply with the Coleman lawsuit.)*	-14,654	-14,660	0	0	**-14,654**	**-14,660**	Approve as budgeted.
Mental Health Crisis Bed Facility: Additional nursing staff needed to license the 50-bed licensed Mental Health Crisis Bed facility at the California Medical Facility authorized by the 2007 Budget Act. This facility helps the state comply with the *Coleman* lawsuit.	0	659	0	0	**0**	**659**	Approve as budgeted.
Psychiatric Services Unit (PSU) Expansion: Additional staffing and cell renovation to add 64 additional PSU beds at the California State Prison, Sacramento.	2,976	4,705	0	0	**2,976**	**4,705**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Women's Condemned Row Exercise Yard: The condemned women at the Central California Women's Facility currently have to share the exercise yard with the segregation unit. This has severely limited the amount of yard time available to the condemned population. A recent lawsuit requires that Grade A (best behavior) condemned inmates have access to the same privileges as other inmates. An additional yard for the condemned inmates has been constructed to provide additional yard time and this proposal would provide staffing to support the new exercise yard for the 15 condemned women at the Central California Women's Facility.	71	304	0	0	**71**	**304**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Bonding Mothers with Babies Prison Nursery Program: This program provides up to 16 pregnant inmates with the opportunity to stay with their infants while incarcerated. The women eligible for this program must be in their second or third trimester of pregnancy with a release date from 9-15 months after their expected date of delivery. This program provides wrap-around services for the women and infants, including substance abuse treatment, parenting classes, and on-site pediatric services. The renovation of the nursery for this program was funded by private donors and services are provided by a collaboration of organizations. The department has $334,000 in its base budget to support this program (funded with reducing recidivism money in 2007-08.) This program is located at the California Institution for Women. The program is expected to be activated in May 2008.	167	207	-161	0	**6**	**207**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
***Valdivia* Case Records Positions:** 1 case record position is provided for every 1,364 parole holds. The caseload in the budget year is projected to decline resulting in the need for fewer case records analysts to support this workload.	0	1,863	0	-725	**0**	**1,138**	Approve as budgeted.
Security Housing Unit (SHU) Conversion at CSP, Sacramento: Proposal to convert a general population unit at SAC to accommodate the transfer of HIV-positive SHU inmates that were previously held at CSP, Corcoran. This transfer is being made because of the Valley Fever risk at Corcoran. Corcoran will continue to operate the vacated HIV-SHU as a regular SHU.	0	0	522	2,664	**522**	**2,664**	Approve as budgeted.
Institutions Subtotal	***6,608***	***80,825***	***-38,508***	***-99,749***	***-31,900***	***-18,924***	

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Contract Facilities							
In-State Private and Public-Owned Prison Facilities: This item addresses changes in activation of in-state prison facilities that are both privately and publicly owned. The budget year includes $12.8 million to support a rate increase for three private facilities with expired contracts. The budget year also includes funding to support 10 additional beds at the Lassen CCF. There are also numerous adjustments and delays in the current year related to the Adelanto and Leo Chesney facilities.	428	13,833	-400	297	**28**	**14,130**	Approve as budgeted.
Out of State Private Prison Facilities: The department continues to ramp up contracts with out of state private prison facilities. The Governor's budget includes a new contract for 3,000 beds at a private prison in Eloy, Arizona. This item also includes additional staffing to support the out of state contracts, including increased costs related to the management of the contracts, transportation of inmates and property, and pre-transfer screening process.	-571	14,514	-8,804	-3,516	**-9,375**	**10,998**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Ratio Staff for Out of State Beds: This item provides the department with the correctional counselor staffing and other support staffing that is inmate population-driven and needed to support the out-of-state contracts.	0	3,928	-349	0	**-349**	**3,928**	Approve as budgeted.
Contract Beds Adjustment: This adjustment takes into account the difference between the inmate population and the contract beds activation schedules. Since there were delays in implementing some of the contracts in the current year there is increased institution expenditures in the current year. In the budget year additional contracts are expected to activate, thereby reducing institution expenditures.	-3,247	-67,415	5,341	-10,549	**2,094**	**-77,964**	Approve as budgeted.
Ratio Staff for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	214	0	-214	0	**0**	**0**	Approve as budgeted.
General Operating Expenses for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	236	0	-236	0	**0**	**0**	Approve as budgeted.
Health Care Operating Expenses for Leased Jail Beds: The process for making this adjustment has been revised and is no longer needed.	110	0	-110	0	**0**	**0**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Leased Jail Bed ADP Adjustment: This adjustment takes into account the difference between the inmate population and the leased jail beds activation schedule. The average daily population in the contract jail beds is less than the number of beds under contract for the current year resulting in increased institution expenditures in the current year.	1,542	0	4,359	0	**5,901**	**0**	Approve as budgeted.
Contract Subtotal	***-1,288***	***-35,140***	***-413***	***-13,768***	***-1,701***	***-48,908***	
Subtotal Adult Facilities	***5,320***	***45,685***	***-38,921***	***-113,517***	***-33,601***	***-67,832***	
Adult Parole							
Felon (70:1) Supervision: The felon parole population is projected to decline in the budget year, thereby reducing the funding needed for parole supervision. However, offsetting this decline in population is an upward adjustment in the budget year to account for the high-control parolees-at-large that had previously been inadvertently excluded when calculating the funding needed to supervise felon parolees.	8,599	17,354	1,418	-6,082	**10,017**	**11,272**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
2nd Striker (40:1) Supervision: The 2nd striker parole population is projected to decline in the current year and budget year, thereby reducing the funding needed for parole supervision.	1,366	1,575	-7,719	-13,156	**-6,353**	**-11,581**	Approve as budgeted.
Enhanced Outpatient Program (40:1) Supervision: The EOP parole population is projected to decline in the current year and budget year, thereby reducing the funding needed for parole supervision. *This item only funds parole supervision and does not fund other services to support this population.*	976	1,393	-365	-242	**611**	**1,151**	Approve as budgeted.
Sex Offender (40:1, passive GPS) Supervision: The non-high risk sex offender population is projected to decline slightly in the current and budget years. This funding includes the cost of the GPS unit, which is $7.50 per unit per day.	0	0	-4,459	-482	**-4,459**	**-482**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
High Risk Sex Offender (20:1, active GPS) Supervision: The high-risk sex offender population is projected to decline in the current and budget years. This funding includes the cost of the GPS unit, which is $11 per unit per day. Starting in the budget year $500 per parolee is provided for two polygraph tests annually and $14,000 per parolee for treatment services.	0	0	-5,655	-11,172	**-5,655**	**-11,172**	Approve as budgeted.
Non-Felon (63.4:1) Supervision: The non-felon parole population is projected to decline slightly in the current and budget years, thereby reducing the funding needed for parole supervision.	-183	-347	-97	-514	**-280**	**-861**	Approve as budgeted.
US ICE Pending Deportation (500:1): The foreign national parole population pending deportation is projected to increase slightly in the current and budget years, thereby increasing funding needed for parole case monitoring.	371	253	172	470	**543**	**723**	Approve as budgeted.
US ICE Deported (1,200:1 - clerical): Parole also does minimal monitoring of cases that have been deported. These cases are expected to be slightly fewer in the current and budget years.	-21	-1	-35	-76	**-56**	**-77**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Service Center Supervision (57.1:1): A parole officer is assigned to parolees living in parole service centers and restitution centers, which are residential centers that provide wrap around treatment services. The average daily population in these centers is slightly less in the current year.	-271	-59	0	59	**-271**	**0**	Approve as budgeted.
Parole Service Center Contracts: This parole service centers and restitution centers provide parole with residential services that provide wrap around treatment services. The department indicates that it has not been able to contract for the full 1,140 beds due to instability in the funding and lack of local support for siting these facilities.	-6,353	0	0	0	**-6,353**	**0**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Parole Outpatient Clinics - EOP Services: This item provides ratio driven clinical staff and funding for medication and treatment services for the EOP parole population. *The staffing for the EOP population is less than the CCCMS population, because the assumption is that the offender will be transferred to county care after 90 days. The pharmaceutical budget is also no different from the CCCMS, which is not consistent with actual costs related to this population. This does not include the $6 million in additional funding provided in the budget to support wrap-around services for this population.*	644	946	113	190	**757**	**1,136**	Approve as budgeted.
Parole Outpatient Clinics - CCCMS Services: This item provides ratio driven clinical staff and funding for medication and treatment services for the CCCMS parole population. The population is expected to be slightly lower than previously projected for the budget year.	2,168	4,865	37	-897	**2,205**	**3,968**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Clerical Adjustment: Funding for the supervision also includes ratio positions for clerical support. However, given the significant shortage in base staffing for clerical support a reduction in ratio-driven positions is added back to avoid exacerbating existing clerical support.	194	95	0	0	**194**	**95**	Approve as budgeted.
Parole Leased Jail Bed Adjustment: This item adjusts the contract payments to three county jails (Sacramento, Alameda, and San Francisco) for holding parolees. The current year adjustment is due to low utilization of the San Francisco contract. *The Governor's May Revision proposal would eliminate these contracts.*	0	1,913	-7,636	0	**-7,636**	**1,913**	Approve as budgeted.
Parole Subtotal	***7,490***	***27,987***	***-24,226***	***-31,902***	***-16,736***	***-3,915***	
Board of Parole Hearings							
***Valdivia* Case Records:** Additional staff are needed to conduct parole revocation hearings within the timeframe and requirements of the *Valdivia* lawsuit. The number of parole revocation hearings are expected to be lower than previously projected.	1,223	2,291	445	-1,050	**1,668**	**1,241**	Approve as budgeted.
Board of Parole Hearing Subtotal	***1,223***	***2,291***	***445***	***-1,050***	***1,668***	***1,241***	

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
Other Adult							
Personnel Services Specialists: For every 180 new CDCR positions added, CDCR requests 1 Personnel Services Specialist I to handle personnel-related workload. *This calculation does not include the positions added by the Receiver.*	0	0	129	103	**129**	**103**	Approve as budgeted.
Health Records Technicians: For every 1 percent growth in CDCR's inmate population, CDCR requests 1.15 Health Record Technicians to address projected additional health records workload. *This item is a placeholder and is expected to be directly impacted by the Receiver.*	-81	29	0	0	**-81**	**29**	Approve as budgeted.
Move Female Civil Addicts from CRC to CIW: All female civil addicts housed at CRC have been transferred to CIW to provide additional space at CRC for male inmates and civil addicts and to consolidate all female offenders at female-only institutions. This provides CIW with the necessary staff to provide additional urinalysis and other services	0	734	0	0	**0**	**734**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Parole Reform Technical Adjustment: This technical adjustment is made to add back the savings projected in the 2007 Budget Act related to the implementation of the 13-month clean time parole policy. This adjustment is needed to avoid reducing CDCR's budget twice for the same action because the impact of this policy change is now reflected in the lower population trends.	0	0	31,205	58,264	**31,205**	**58,264**	Approve as budgeted.
Other Adult Subtotal	***-81***	***763***	***31,334***	***58,367***	***31,253***	***59,130***	
Adult Workload Total*	***13,952***	***76,726***	***-31,368***	***-88,102***	***-17,416***	***-11,376***	
*** This total is what the administration refers to as the fiscal impact of population growth or changes to existing mix of population.**							
Adult Policy Adjustment Category							
Drug Treatment Furlough: This program enables certain non-violent, non-serious inmates to transfer to residential drug treatment 120 days prior to their release date to accelerate treatment and reintegration back into the community. The department has been budgeted for 426 beds but has increased utilization of this program and plans on funding 500 beds in the budget year. The department's current average daily population in drug treatment furlough is 489.	0	0	0	236	**0**	**236**	Approve as budgeted.

Attachment A

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
In Custody Drug Treatment Program: This program was ordered by the *Valdivia* lawsuit to provide 1,800 beds in the community to serve as alternative sanctions for parole violators. The population estimate assumes that 85 percent of these will be established in the budget year. The program is designed in three phases. Phase I is 60 days in custody, phase II is an additional 30 days in custody and phase III is an additional 60 days in custody. The department assumes 30 percent of offenders will need phase III services. This funding is net of the institution savings from not sending these inmates back to prison.	0	0	6,465	8,826	**6,465**	**8,826**	Approve less $6,826 in the BY to correct a technical error.
Northern California Re-Entry Facility: This funding is for the pre-activation and activation of the first re-entry facility located at the old Northern California Women's Facility in San Joaquin County. The facility will be activated in May 2009 and the first inmates are expected to arrive in July 2009.	727	1,131	-646	11,701	**81**	**12,832**	Approve as budgeted.
Northern California Re-entry Facility: This funding is from the Inmate Welfare Fund and will support canteen operations at the new reentry facility.	0	0	0	24	**0**	**24**	Approve as budgeted.

	Governor's Budget		May Revision		Total		
	2007-08	**2008-09**	**2007-08**	**2008-09**	**2007-08**	**2008-09**	
San Francisco Re-Entry Project: The department is planning to contract with San Francisco County to target 48 non-violent state prison inmates to participate in re-entry programming in the San Francisco County Jail in San Bruno. This project would also include the provision of re-entry programming and support once the inmates are paroled.	0	2,516	0	-129	**0**	**2,387**	Approve as budgeted.
Female Reform Beds: The department is planning on implementing Phase II of a project to place up to 2,000 low-level female offenders in smaller community correctional centers closer to their homes. The department is also planning a 150-bed expansion to the existing Female Offender Treatment and Employment Program and activating 575 multi-service center beds for female parolees. The department is also planning to contract for 750 beds in Sober Living Environments, which are smaller facilities that would provide a step-down environment for female parolees that complete residential drug treatment.	2,927	30,407	-2,664	-505	**263**	**29,902**	Approve as budgeted.
Misc. Subtotal	***3,654***	***34,054***	***3,155***	***20,153***	***6,809***	***54,207***	
Local Assistance							

	Governor's Budget		May Revision		Total		
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09	
Daily Jail Rate Adjustment - The Governor's May Revision proposes to keep the daily jail rate at its current level. The Governor had included an increase in the January budget proposal. This adjustment will provide $44 million to reimburse locals for parolee detention. *These funds would be significantly reduced if the Governor's summary parole proposal was implemented.*	0	0	0	-2,691	**0**	**-2,691**	Approve as budgeted.
County Charges. Funding to reimburse various county claims for medical, security, revocation hearings, and daily jail bed expenditures. This increase includes $1.3 million in one-time funding to pay claims expected in the current year.	0	0	0	2,108	**0**	**2,108**	Approve as budgeted.
Local Assistance Subtotal	***0***	***0***	***0***	***-583***	***0***	***-583***	
Adult General Fund Total	***17,606***	***110,780***	***-28,213***	***-68,532***	***-10,607***	***42,248***	

SUBCOMMITTEE NO. 4 Agenda

Committee on State Admin., General Govt., Judicial, Transportation and Corrections

Chair, Senator Mark DeSaulnier

December 11, 2008

10:00 A.M.

Room 112

(Danny Alvarez, Brian Annis, Keely Bosler, Bryan Ehlers)

Senate Budget and Fiscal Review Subcommittee #4 (State Administration, General Government, and Transportation)
December 11, 2008

	Program Reduction	Gov Proposal 2008-09	Gov Proposal 2009-10	Gov Proposal Total	LAO Options 2008-09	LAO Options 2009-10	LAO Options Total	November Alternative 2008-09	November Alternative 2009-10	November Alternative Total	Senate Republican Alternatives 2008-09	Senate Republican Alternatives 2009-10	Senate Republican Alternatives Total
Transportation													
1	**Eliminate State Funding for Transit Agency operations** - Delete statutory program to allocate a portion of the sales tax on fuels to local transit agencies. Funding has been reduced in past years for General Fund relief, but the funding has never been completely deleted.	153.2	306.4	459.6									
2	**Reduce State Funding for Transit Agency operations** - No change to underlying statute, but reduce funding in 2008-09 and ongoing to one-half the 2007-08 funding level.							156.4	156.4	312.8			
3	**Increase vehicle registration fees by $12 as part of local public safety fund shift.** Fund $360 Million of Public Safety Programs with Vehicle License Fee (VLF) revenue - Shift VLF used to fund the Department of Motor Vehicles (DMV) to local subventions for public safety programs. Backfill DMV with a $12 increase in the annual vehicle registration fee (the current base fee is $52). (Detail on the public safety aspect of this proposal will be in the Judiciary/Criminal Justice section of Friday's agenda).	(92.0)	(359.0)	(509.0)				(92.0)	(359.0)	(509.0)			
4	**Suspend Local Airport Grant programs.** Suspend three grant programs for the state's 149 municipal airports. The associated revenue is from taxes on jet fuel and aviation fuel and can be transferred to the General Fund.				0.0	4.5	4.5						
5	**Transfer Miscellaneous Motor Vehicle Account (MVA) Revenue to the General Fund.** Transfer (not loan) all Motor Vehicle Account revenues not restricted by Article XIX of the State Constitution. These revenues are from sales of documents, and other miscellaneous sources that can be used for general purposes.				55.0	110.0	165.0	85.0	85.0	170.0			
6	**Redirect Tribal Gaming Revenue.** Redirect, to the General Fund, the portion of tribal gaming revenue currently directed to transportation loan repayment.				62.9	100.8	163.7	100.8	100.8	201.6			

		Gov Proposal			LAO Options			November Alternative			Other Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
Local Government													
1	**Redevelopment Agency Pass-Through Payments.** The 2008 Budget Act shifted $350M in Redevelopment Agency (RDA) revenue to schools on a one-time basis, which reduces the State's Prop 98 obligation by the same amount. The LAO option would increase the current-year amount by $50 million and make the pass-through requirement permanent. This requirement would offset part of the annual revenue loss K-14 districts experience due to redevelopment.			$0.0	50.0	400.0	$450.0			$0.0			$0.0
2	**Animal Shelter Mandate**—Repeal mandate that requires public animal shelters to hold animals a minimum of 6 days before euthanizing them. When this law passed in 1998, it was not expected to result in a state cost because shelters would receive increased adoption and owner-redemption fees. Instead local mandate claims sum to about $23 million per year, and the LAO questions whether the goal to increase adoptions and reduce euthanization is being achieved.			0.0	0.0	25.0	25.0			0.0			0.0
3	**Eliminate funding for the Williamson Act - Agricultural Land Preservation.** Under this program land owners agree to maintain their land as open space in return for reduced property taxes. The state reimburses the local governments for the property tax loss. Note, there is an additional longer-term unscored savings from this proposal because the Williamson Act also reduces property tax paid to schools which is backfilled through Prop 98.	34.7	34.7	69.4			0.0	34.7	34.7	69.4			0.0
4	**Redevelopment Agency Alternative**—Establish a voluntary program in which RDAs pledge a portion of future tax increment in exchange for other concessions (i.e. prevailing wage, extension of time-periods, exemptions from increment cap).										NA	NA	N/A

	Program Reduction	Gov Proposal 2008-09	Gov Proposal 2009-10	Gov Proposal Total	LAO Options 2008-09	LAO Options 2009-10	LAO Options Total	November Alternative 2008-09	November Alternative 2009-10	November Alternative Total	Senate Republican Alternatives 2008-09	Senate Republican Alternatives 2009-10	Senate Republican Alternatives Total
General Government													
1	**Office of Planning and Research**—Eliminate Cesar Chavez Grants.			0.0	2.5	2.5	5.0	2.5	2.5	5.0			0.0
2	**Eliminate Various Programs**—Eliminate Office of Administrative Law, Commission on the Status of Women, and the Commission for Economic Development.			0.0	0.9	3.5	4.4			0.0			0.0
3	**Employee Compensation Changes.** Governor proposed statutory change to implement reductions outside collective bargaining in the following areas: one-day furlough per month ($450M); Eliminate two holidays and holiday premium pay ($74M); and exclude leave from overtime calculation ($30M) - all amounts are General Fund and full-year savings. The November Alternative scores savings to be negotiated through collective bargaining.	247.1	555.4	802.5			0.0	240.0	417.6	657.6			0.0
4	**Controller's Office**—Reduce funding provided for new modular furniture. Require Controller to prioritize funding for new furniture. In 2006-07, the Controller's Office purchased nearly $7 million of new modular furniture for teh Controller's facilities at the Cannery Business Park in Sacramento. The annual cost to finance this purchase was $996,000 (over 7 years).										1.0	1.0	2.0
5	**California Science Center**—Transfer ownership and operational obligations related to the Science Center to the City of Los Angeles, County of Los Angeles or another local agency.										0.2	0.2	0.4
6	**CAAM Museum Expansion**—Delay expansion of the museum. The 2008 Budget Act includes $200,000 General Fund for Working Drawings. General Fund costs for 2009-10 are projected to be $39.2 million.										0.2	39.2	39.4
7	**Surplus Property**—California Performance Review identified numerous high value properties that could be dispensed with. This issue should be discussed and the committee should identify properties that could be sold to help repay Economic Recovery Bonds.										N/A	N/A	N/A
8	**Department of General Services**—Delay additional capitol maintenance and repair projects. The 2008 Budget Act includes $6.6 million General Fund for these projects. Reducing funding by $2 million would leave $4.6 million for projects in 2008-09.										2.0	2.0	4.0
9	**Arts Council**—Eliminate General Fund support of the Arts Council. The Council would continue to operate using federal funds and the Graphic Design License Plate Account (total of $3.9 million).										1.1	1.1	2.2
10	**Augmentation for Contingencies and Emergencies**—Reduce this Budget Act appropriation by $9.1 million (from $44.1 million to $35 million). The state only used $13 million in 2006-07 and approximately $18 million in 2007-08. If $35 million is not sufficient, the Legislature could pass a supplemental appropriations bill.										9.1	9.1	18.2
11	**Commission on State Mandates**—Given the high cost of state mandated programs, the state should re-evaluate which ones can be repealed or restructured to generate savings on a statewide basis.												
12	**Legislature—**Employ a 5 percent across-the-board cut for both the Senate and Assembly.										13.1	13.1	26.2

SUBCOMMITTEE NO. 4 Agenda

Committee on State Admin., General Govt., Judicial, Transportation and Corrections

Chair, Senator Mark DeSaulnier

December 12, 2008

10:00 A.M.

Room 112

(Keely Bosler)

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
Judicial Branch													
1	**Suspend Full Implementation of Conservatorship and Guardianship Reform Act of 2006.** These funds were originally proposed in 2007 to support implementation of the Act. They were vetoed in 2007 and not included in the 2008-09 Budget Act. The LAO proposes as an option postponing full implementation for another year. This Act significantly increased court oversight of the state conservatorship system for elderly and dependent adults. Some courts have implemented some of the reforms contained in the Act. However, a recent report from the Judicial Council found that most courts were under-resourced for their existing conservatorship caseload, not including the additional workload created by the Act.				0.0	17.4	17.4						
2	**Make One-Time 2008-09 Reductions Permanent.** The 2008-09 Budget Act included one-time reductions to the trial courts ($92 million) and the State Judiciary ($11 million). In most cases local trial courts are using reserve funds to backfill these reductions and the State Judiciary is postponing expenditures and freezing expenditures to stay on budget. The LAO has provided as an option making these cuts ongoing to save additional funds in the budget year. These funds support basic court operations.				0.0	103.5	103.5						
3	**Suspend State Appropriations Limit (SAL) Adjustment for One Year.** State law requires that the budget for the trial courts receive an annual budget increases equivalent to the year-over-year growth in the SAL to accommodate the general growth in court activity. This growth was cut roughly in half in the 2008-09 Budget Act. The LAO finds that the courts have significant reserves that could help the courts manage funding growth in the budget year.				0.0	99.9	99.9						
4	**Partially Eliminate COLA Funded in 2008-09 in lieu of SAL Adjustment.** The 2008-09 Budget Act did not include the full SAL adjustment required by state law and instead included a lower growth rate equivalent to the California CPI (2.7 percent). This saved the state $56 million in the current fiscal year. The LAO proposes a further reduction (50 percent) to the growth provided to the trial courts in the 2008-09 Budget Act.				35.1	35.1	70.2	35.1	35.1	70.2			
5	**Implement Electronic Court Reporting.** Current law requires the use of shorthand reporters to create and transcribe the official record of most court proceedings. The LAO recommends phasing in the use of electronic reporting equipment for some court proceedings. This would save the trial courts money and in some cases increase access to justice by significantly reducing the cost of providing transcripts to court participants.				0.0	12.6	12.6						
6	**Trial Court Security Reform.** Current law requires that county sheriff deputies provide security for the trial courts. In order to help contain the cost of court security, the LAO recommends phasing in competitive bidding for court security.				0.0	20.0	20.0						

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
7	**One-Time Transfer from Trial Court Improvement Fund.** When the trial courts were consolidated, several funds were set up to support this consolidation effort. The funds in the Trial Court Improvement Fund are set aside for these types of investments, including the Case Management System that will enable the judicial branch to transfer case information from one court jurisdiction to another. The LAO has propose as an option transferring, on a one-time basis, monies from the Trial Court Improvement Fund. This would significantly delay many of the consolidation projects being undertaken by the Judicial Branch, including the Case Management System.				61.0	0.0	61.0	61.0	0.0	61.0			
8	**One-Time Transfer from State Court Facilities Construction Fund.** The Judicial Branch is in the process of modernizing and replacing many outdated and overwhelmed courthouses. This fund was set up to support the renovation and replacement of obsolete courthouses when the trial courts were consolidated. The LAO has provided as an option transferring, on a one-time basis, funds from the State Court Facilities Construction Fund to the General Fund. This may impact the construction schedule of approved courthouse projects.				0.0	40.0	40.0						
9	**Further Delay Appointment of Additional Judges.** The 2008-09 Budget Act delayed the appointment of 50 new judgeships until the 2009-10 fiscal year. The LAO provides as an option further delaying the appointment of the new judges for at least another year. In 2006 the Governor proposed appointing 150 new judgeships to address the growth of the state. The Legislature authorized the first 50 judgeships in 2006 and they were appointed in 2007 and 2008. The second 50 judgeships that were authorized by the Legislature in 2007 have not been appointed and are the judgeships proposed for delay by the LAO option.				0.0	57.1	57.1						
	TOTAL	**0.0**	**0.0**	**0.0**	**96.1**	**385.6**	**481.7**	**96.1**	**35.1**	**131.2**	**0.0**	**0.0**	**0.0**

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
Department of Justice													
1	**Charge Forensic Lab Fees.** The Department of Justice has 12 forensic labs that serve 46 counties that do not have county funded forensic labs. These labs are fully funded by state funds even though they directly support local law enforcement. The LAO has recommended for several years that fees be charged to local law enforcement agencies for services performed by the state labs. The LAO finds that the labs directly benefit activities that are the responsibility of local government.				0.0	20.5	20.5						
	TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**20.5**	**20.5**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
Other Public Safety													
1	**Victim Compensation and Government Claims Board.** The Restitution Fund supports victim compensation and various other programs. It is funded from criminal fines and penalties. The Restitution Fund has had a significant balance over the last several years and the 2008-09 Budget Act includes a transfer of $50 million from the Restitution Fund to the General Fund. The LAO recommends transferring another $30 million from the Restitution Fund balance to the General Fund in the current fiscal year.				30.0	0.0	30.0						
2	**Commission on Peace Officer Standards and Training.** A portion of the support for the Commission comes from the Driver Training Penalty Assessment Fund and is allocated to the Commission by Control Section 24.10 of the budget act. The 2008-09 Budget Act reduced the transfer to the Commission by $6 million, thereby saving $6 million in General Fund. The LAO recommends reducing the transfer by an additional $4 million in the budget year. This would require the Commission to further rely on reserve funds to support its current program level.				0.0	4.0	4.0						
	TOTAL	**0.0**	**0.0**	**0.0**	**30.0**	**4.0**	**34.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
Local Law Enforcement													
	Overview. The Governor has proposed realigning vehicle license fee (VLF) revenues that currently support the Department of Motor Vehicles to a new Local Agency Public Safety Account to support local law enforcement subventions. This will result in $689.8 million in General Fund savings over the current and budget years. Over the current and budget years combined, $451 million in VLF revenues will be used to backfill the General Fund reduction. This VLF backfill does not cover all of the local law enforcement subventions funded in the 2008-09 Budget Act and the Governor has proposed reducing and eliminating some local law enforcement programs in the current and budget years. The Governor's proposals for each program are detailed below. In addition, the VLF revenues used to backfill these subventions currently support DMV operations and the Governor has proposed increasing the annual vehicle registration fee by $12 to backfill DMV operations. *(The numbers in italics listed below are the VLF expenditures the Governor has proposed to support these programs in the current and budget years.)*	188.7	501.1	689.8				188.7	501.1	689.8			
1	**Citizens' Option for Public Safety (COPS) Program.** Under the COPS Program counties and cities receive state funds, on a population basis, to augment primarily local funds for district attorneys, county jail construction and operation and front-line law enforcement. The COPS program was funded at $107 million in the 2008-09 Budget Act. The Governor proposes to shift funding for this program from the General Fund to vehicle license fee revenues and to reduce this program by $17.7 million and $11.3 million in the current and budget years, respectively.	*(26.9)*	*(95.8)*	*(122.7)*				*(26.9)*	*(95.8)*	*(122.7)*			
2	**Juvenile Justice Crime Prevention Act (JJCPA) Program.** The JJCPA program provides funding to local governments for services that target at-risk juveniles, juvenile offenders, and their families. The LAO has found that investments in this program save the state money by diverting juveniles from the state corrections system. The JJCPA program was funded at $107 million in the 2008-09 Budget Act. The Governor proposes to shift funding for this program from the General Fund to vehicle license fee revenues and to reduce this program by $17.7 million and $11.3 million in the current and budget years, respectively. This program is tied to the COPS program in statute.	*(26.9)*	*(95.8)*	*(122.7)*				*(26.9)*	*(95.8)*	*(122.7)*			
3	**Juvenile Probation Funding.** The California Department of Corrections and Rehabilitation (CDCR) allocates this funding to counties for public safety programs targeting juveniles. The Juvenile Probation Funding program was funded at $151.8 million in the 2008-09 Budget Act. The Governor proposes to shift funding for this program from the General Fund to vehicle license fee revenues and to reduce this program by $25.1 million and $16 million in the current and budget years, respectively.	*(38.2)*	*(135.9)*	*(174.0)*				*(38.2)*	*(135.9)*	*(174.0)*			
4	**Juvenile Camps Funding.** The CDCR allocates this funding to counties that operate juvenile camps and ranches to help support operations. This program was funded at $29.4 million in the 2008-09 Budget Act. The Governor proposes to reduce funding for this program by $12.3 million in the current year and eliminate funding for this program in the budget year.	*0.0*	*0.0*	*0.0*				*0.0*	*0.0*	*0.0*			

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
5	**Small and Rural Sheriffs Program.** This program has historically provided approximately $500,000 to 37 county sheriff departments. This program was funded at $16.7 million in the 2008-09 Budget Act ($450,000 to each county). The Governor proposes eliminating funding for this program in the budget year.	*0.0*	*0.0*	*0.0*				*0.0*	*0.0*	*0.0*			
6	**Booking Fees.** Booking fees are charges that counties impose on cities and other local agencies to recover the costs associated with booking persons into the county jail. Current law restricts counties from charging booking fees and, in exchange, the state provides counties with subventions intended to offset the resulting loss in revenue. This subvention was funded at $31.5 million in the 2008-09 Budget Act. The Governor proposes funding this subvention at the same level in the budget year.	*0.0*	*(31.5)*	*(31.5)*				*0.0*	*(31.5)*	*(31.5)*			
7	**Office of Emergency Services - General Fund Grant Programs.** The Governor proposes reducing in the current year and eliminating in the budget year local law enforcement grant funding for ten programs administered by the Office of Emergency Services. The programs eliminated include the California Multi-jurisdictional Methamphetamine Enforcement Team program, vertical prosecution block grants, high technology theft apprehension and prosecution program, and others. These programs were funded at $57.4 million in the 2008-09 Budget Act. The Governor proposes to reduce these programs by $23.9 million in the current year and eliminate funding for these programs in the budget year.	*0.0*	*0.0*	*0.0*				*0.0*	*0.0*	*0.0*			
8	**Office of Emergency Services - Restitution Fund Grant Programs.** The LAO has proposed as an option eliminating recently established grants supported by the Restitution Fund. The revenues deposited in the Restitution Fund can be transferred to the General Fund. Specifically, the LAO proposes as an option eliminating the California Gang Reduction Intervention and Prevention program and the Internet Crimes Against Children Task Force and transferring the Restitution Fund to the General Fund.				30.0	0.0	30.0						
9	**Office of Emergency Services - Administration.** The LAO also finds that if the Governor's proposals to eliminate funding for the twelve local law enforcement programs detailed above are approved there will be additional administrative savings at the Office of Emergency Services.				1.7	8.4	10.1						
	TOTAL	**96.7**	**142.1**	**238.8**	**31.7**	**8.4**	**40.1**	**96.7**	**142.1**	**238.8**	**0.0**	**0.0**	**0.0**

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
California Department of Corrections and Rehabilitation													
	Overview. Expenditures on state corrections are driven primarily by the number of inmates the state incarcerates and parolees the state supervises in the community. In very broad terms, these number are impacted by policies that effect who goes to state prison, how long offenders spend in prison, and how and how long offenders are supervised on parole. The Governor has put forward a package of policy proposals that impact all of these things. The LAO has also put forward several options in addition to the Governor's proposals. All of the savings presented by the LAO may not be achievable collectively with the Governor's proposals because there is considerable overlap in the offenders impacted by the various proposals.												
1	**Inmate Credit Changes.** The Governor proposes changes to the system in which inmates earn credits for good behavior in prison. Currently most inmates that follow state prison rules earn one day credit for every day they serve in prison. The Governor's proposal would make the following changes: (1) extend the day for day credit to the jail time an inmate serves as part of a prison sentence (currently inmates get one day for every three days served in jail); (2) provides up to four months in additional credits for completing specific rehabilitation and educational programs in prison; (3) and extends enhanced credit earning status of fire camp inmates to inmates waiting to be transferred to fire camp (currently inmates in fire camps earn two days for every one day served).	7.8	104.4	112.1									
2	**Parole System Changes.** (1) The Governor proposes changes to the current system of parole that currently places nearly all offenders on parole for up to three years. The Governor's proposal would provide that all inmates with non-serious, non-violent, non-sex offenses that also do not have serious, violent or sex offense priors be directly discharged from prison and not placed on parole. This would make California's parole policies similar to most other states that do not supervise all inmates released from prison. (2) The LAO has proposed an alternative risk-based parole system for non-serious, non-violent, non-sex offenders. A risk-based parole system is based on a risk assessment that evaluates an offenders risk factors in addition to commitment offense to determine how likely they are to re-offend. Under the LAO's proposal low risk offenders would be directly discharged from prison and moderate risk offenders would be placed on parole for six months.	19.9	206.2	226.0	25.0	50.0	75.0						
3	**Alternative Sanctions for Parole Violators.** (1) The Governor has proposed and the administration is currently implementing a matrix of alternative sanctions for parole violators. Alternative sanctions include GPS monitoring, residential drug treatment, and community work crews. The savings related to this policy change ($22 million) have already been counted in the current fiscal year. (2) The LAO also proposes the use of alternative sanctions en lieu of revocation to state prison. Specifically the LAO recommends that all technical and misdemeanor parole violators not be returned to prison, which would result in significantly more savings than scored under the Governor's proposal.	0.0	22.0	22.0	138.0	262.0	400.0						

		Gov Proposal			LAO Options			November Alternative			Senate Republican Alternatives		
	Program Reduction	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**	**2008-09**	**2009-10**	**Total**
4	**Alternative Sanctions for Parole Violators - Monitoring and Mentoring.** The Senate Republicans have proposed a monitored house arrest alternative that diverts low- and moderate-risk parole violators who are not awaiting prosecution for a felony offense, who have no violent, gang-related, or sex-related priors, and who would otherwise be returned to custody for a period of no more than 10 months to GPS monitored house arrest if they also post a bond to ensure against flight. Some of the savings from this proposal would be used to implement a parolee mentoring program. This program would cost $10 million in the current year and $20 million in the budget year.										0.0	27.4	27.4
5	**Update to Property Crimes.** The Governor has proposed adjusting the threshold for certain property crimes to reflect inflation. Some of these thresholds have not been adjusted since 1982. For example, adjusting grand theft for inflation would increase the current threshold from $400 to $950.	0.0	51.3	51.3									
6	**Other Adjustments.** The Governor's overall package of corrections policy changes will reduce prison and parole populations, which will result in other operational savings at the department. Other savings are related to a reduced demand for the operations of the Board of Parole Hearings, parole and correctional officer academies, and parole programs. The package of reforms also has some one-time costs ($2.5 million in the current year and $6.6 million in the budget year) related to implementing the changes to inmate credits and the parole system.	18.2	272.4	290.6									
7	**Change "Wobbler" Crimes to Misdemeanors.** Current law allows some crimes to be charged as either misdemeanors or felonies. These crimes are referred to as "wobblers" and include drug possession and petty theft with a prior. The LAO proposes changing the "wobbler" crimes to straight misdemeanors.				128.0	261.0	389.0						
8	**Change Three Strikes Sentence Enhancement.** The LAO proposes requiring second and third "strikes" to be serious or violent for an offender to get a full "three strikes" sentence enhancement. The LAO finds that this would prioritize limited prison resources for the most serious and violent offenders.				10.0	50.0	60.0						
9	**Early Release Option 1.** The LAO proposes as an option to reduce corrections expenditures to release all non-lifer inmates 30 days early. National research has shown that early release has no statistical impact on crime rates in communities and California has employed this option as a way to save money in the past.				27.0	53.0	80.0						
10	**Early Release Option 2.** The LAO proposes as an option to reduce corrections expenditures to release inmates that arrive at state prison with less than six months left to serve on their prison sentence.				14.0	29.0	43.0						
11	**Shorten Parole Revocations.** The LAO proposes to reduce by one month the amount of time parolees are sent back to prison on a parole revocation.				48.0	96.0	144.0						
12	**Fees for Parolees.** The LAO proposes as an option for raising revenue to support parole a monthly supervision fee paid by parolees. The LAO assumes a fee of approximately $40 per month and that 50 percent of offenders would pay the fee.				16.0	31.0	47.0						
	TOTAL	**45.8**	**656.3**	**702.1**	**406.0**	**832.0**	**1,238.0**	**0.0**	**0.0**	**0.0**	**0.0**	**27.4**	**27.4**

SUBCOMMITTEE NO. 4 Agenda

Committee on State Admin, General Government and Corrections

Chair, Senator Mark DeSaulnier
Senator John Benoit
Senator Loni Hancock
Senator Tom Harman
Senator Christine Kehoe
Senator Gloria Negrete McLeod
Senator George Runner
Senator Rod Wright

December 16, 2008

1:00 P.M.

Room 3191

(Staff: Bryan Ehlers and Keely Bosler)

Senate Republican's Proposed Solutions for Special Session (December)

(Dollars in Millions)

	Program Reduction	2008-09	2009-10	Total	Source
1	**Judicial Branch -** The Senate Republicans have proposed eliminating the COLA provided to the trial courts in the 2008-09 Budget Act and providing half of the growth in the budget year. The LAO and the Senate Democrat's November Alternative both proposed reducing the COLA by half in the current fiscal year for savings of $35.1 million. (~~The budget year savings of this proposal were under reported in the Senate Republican plan, which reported the budget year savings of this proposal at $35.1 million.~~ The prior statement was incorrectly stated in the public agenda prior to the hearing and is being corrected in this updated version.)	70.2	35.1	105.3	DEMS (Lesser Amount)
2	**Corrections - Alternative Sanctions for Parole Violators - Monitoring and Mentoring.** The Senate Republicans have proposed a monitored house arrest alternative that diverts low- and moderate-risk parole violators who are not awaiting prosecution for a felony offense, who have no violent, gang-related, or sex-related priors, and who would otherwise be returned to custody for a period of no more than ten months to GPS monitored house arrest if they also post a bond to ensure against flight. The Senate Republican's are also proposing a parole mentoring program that would offset the savings in the current year and reduce the savings to $27.4 million in the budget year. (The savings for this proposal was incorrectly listed as $57.4 million in the Senate Republican plan.)	0.0	27.4	27.4	REP

Senate Republican's Proposed Solutions for Special Session (December)

(Dollars in Millions)

	Program Reduction	2008-09	2009-10	Total	Source
3	**FI$CAL -** The Senate Republicans propose to eliminate funding for the Financial Information System for California (FI$Cal) at this time. FI$Cal is a “Next Generation” information technology project that will create and implement a new statewide financial system which would bring the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, and human resources management under a single Enterprise Resource Planning system. (FI$Cal is primarily funded through a cost recovery plan in which the various client agencies pay for the system. Therefore, the $30 million GF savings is the Republican's best guess at the portion of the costs that would be paid by general funded departments.)	0.0	30.0	30.0	REP
4	**Office of Planning and Research -** The Senate Republicans propose to eliminate funding for the following: $1 million Count Every California (census effort); $431,000 (California Volunteer Matching Network); and $107,000 (Governor's Mentoring Partnership)	0.0	1.5	1.5	REP