Senate Budget and Fiscal Review

Subcommittee No. 4 2009 Agendas

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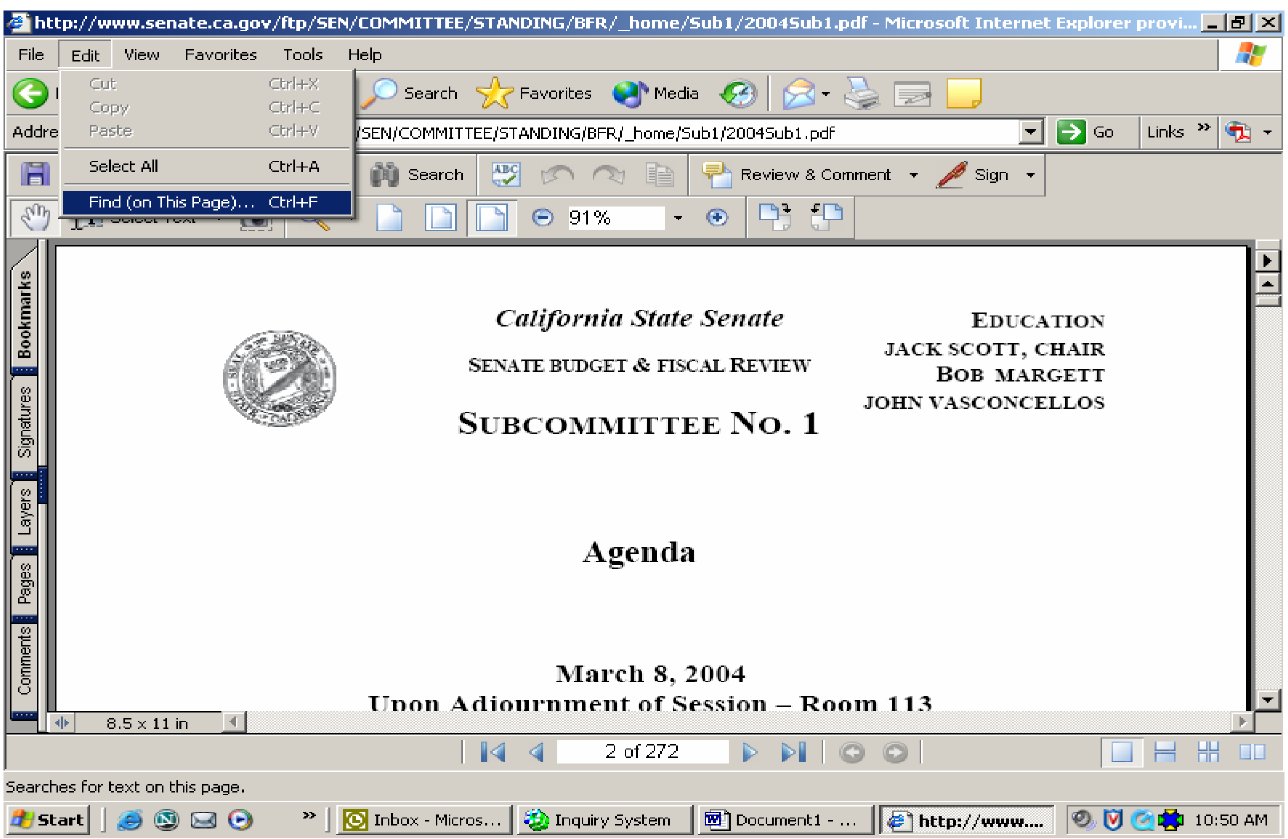

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, March 19, 2009
9:30 a.m. (or upon adjournment)
Room 112

Consultant: Brian Brown

Item Number and Title **Page**

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Informational Overview:

California Department of Corrections and Rehabilitation

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates six juvenile correctional facilities, including two reception centers. In addition, CDCR manages 13 Community Correctional Facilities, about 50 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 adult and juvenile parole offices, as well as houses inmates in 6 out–of–state correctional facilities.

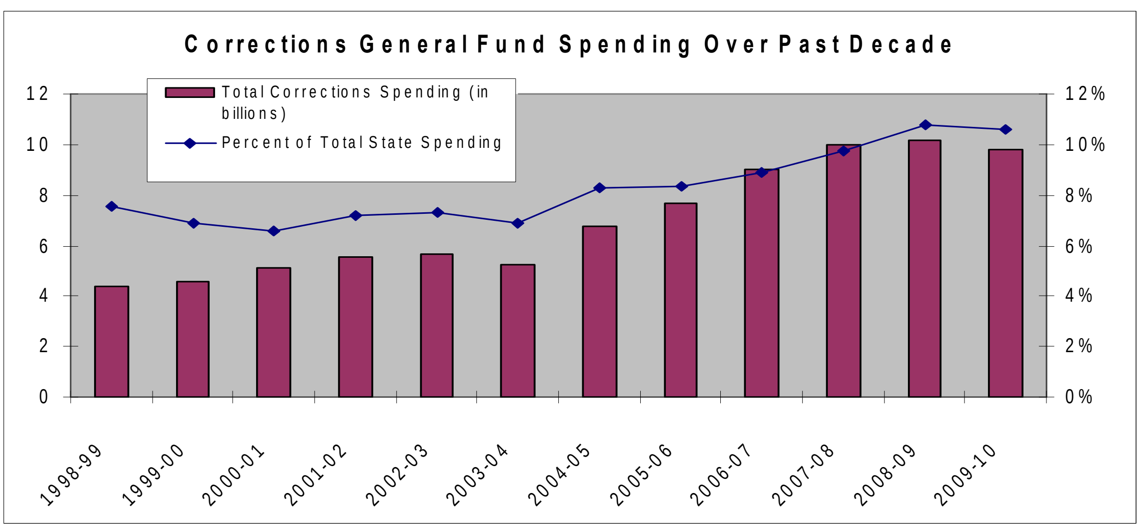
CDCR Budget

Background. The 2009-10 General Fund budget for CDCR is $9.8 billion, primarily for adult prison operations. This total is a decrease compared to the current year, primarily because of an unallocated 10 percent reduction to the Receiver's medical budget, as well as an unallocated $400 million veto by the Governor. Overall, General Fund spending on corrections has more than doubled over the past decade, and CDCR's budget now makes up about 11 percent of total state General Fund spending.

CDCR General Fund Budget

(In millions)

Division	2009-10
Adult Operations	**$8,759**
Adult prison operations	5,404
Adult health care	2,262
Adult parole	881
Adult programs	612
Unallocated reduction	-400
Juvenile Operations	**$433**
Juvenile facility operations	255
Juvenile health care	83
Juvenile programs	62
Juvenile parole	34
Other Operations	**$592**
Administration	396
Board of Parole Hearings	126
Capital outlay	40
Community partnerships	17
Corrections Standards Authority	13
Totals	***$9,784***



California's Annual Costs to Incarcerate an Inmate in Prison

2008-09

Type of Expenditure	Per Inmate Costs	
Security	**$19,663**	
Inmate Health Care	**$12,442**	
Medical care		$8,768
Psychiatric services		1,928
Pharmaceuticals		998
Dental care		748
Operations	**$7,214**	
Facility operations (maintenance, utilities, etc.)		$4,503
Classification services		1,773
Maintenance of inmate records		660
Reception, testing, assignment		261
Transportation		18
Administration	**$3,493**	
Inmate Support	**$2,562**	
Food		$1,475
Inmate activities		439
Inmate employment and canteen		407
Clothing		171
Religious activities		70
Rehabilitation Programs	**$1,612**	
Academic education		$944
Vocational training		354
Substance abuse programs		313
Miscellaneous	**$116**	
Total	**$47,102**	

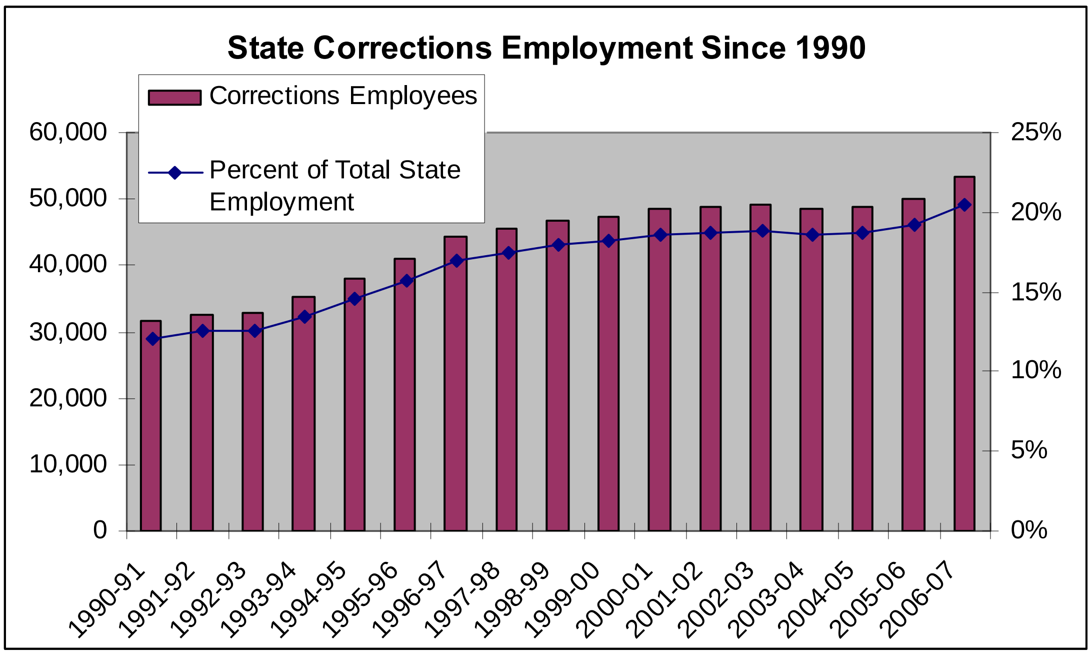
Source: Legislative Analyst's Office, www.lao.ca.gov

Potential Questions for CDCR and LAO.

- What factors have driven CDCR cost increases the most?
- How is CDCR's budget projected to grow in coming years?
- How do per inmate costs in California compare to other states?
- What is the status of the administration's plan to achieve $400 million in savings in the budget year?

CDCR Staffing

Background. The CDCR has more than 50,000 employees, about half of whom are correctional officers who provide security in the state prisons. The department also employs parole agents, health care personnel, teachers, administrative employees, as well as other classifications. Total employment in CDCR has increased significantly since 1990 at which time the department employed about 30,000 staff. Historically, the department has had high vacancy rates in several employee classifications. For a number of years, the correctional officer classification experienced vacancy rates exceeding 10 percent, a significant level given the total number of positions, as well as the fact that correctional officer posts must generally be filled at all times. Expansion of the correctional officer academy in Galt, as well as the department's efforts to boost recruitment, have significantly reduced the vacancy rate for correctional officers.



Other classifications, however, continue to have comparatively high vacancy rates. Notably, several health care classifications have vacancy rates exceeding 20 percent, a problem which limits the ability of the department to meet court-ordered levels of care in the prisons. Also, vacancy rates for teachers and vocational instructors in the prisons are nearly 20 percent, a level that makes it difficult for the department to fulfill its mission of rehabilitation.

Selected Positions and Vacancy Rates

(As of June 30, 2008)

Classification	Authorized Positions	Vacancy Rate
Correctional Officer	24,980	5%
Correctional Sergeant	3,078	13%
Correctional Lieutenant	1,195	16%
Parole Agent	2,828	13%
Physician	348	25%
Registered Nurse	2,181	10%
Licensed Vocational Nurse	1,113	23%
Psychiatrist	363	37%
Psychologist	1,134	21%
Dentist	406	8%
Teacher	1,218	18%
Vocational Instructor	534	18%
Youth Correctional Officer	580	11%
Youth Correctional Counselor	1,010	9%

Potential Questions for CDCR and LAO.

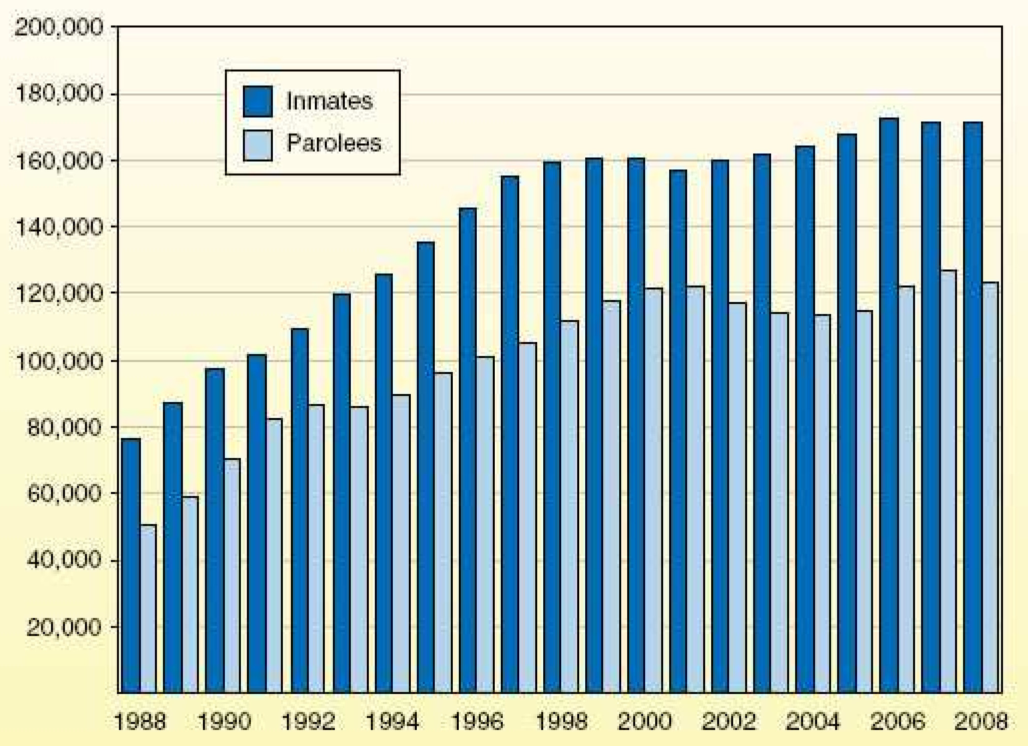
- What factors have driven CDCR staffing increases the most?
- What steps will CDCR take to reduce vacancy rates in key areas of operations, such as security, health care, and rehabilitative programs?

Adult Prison and Parole Populations

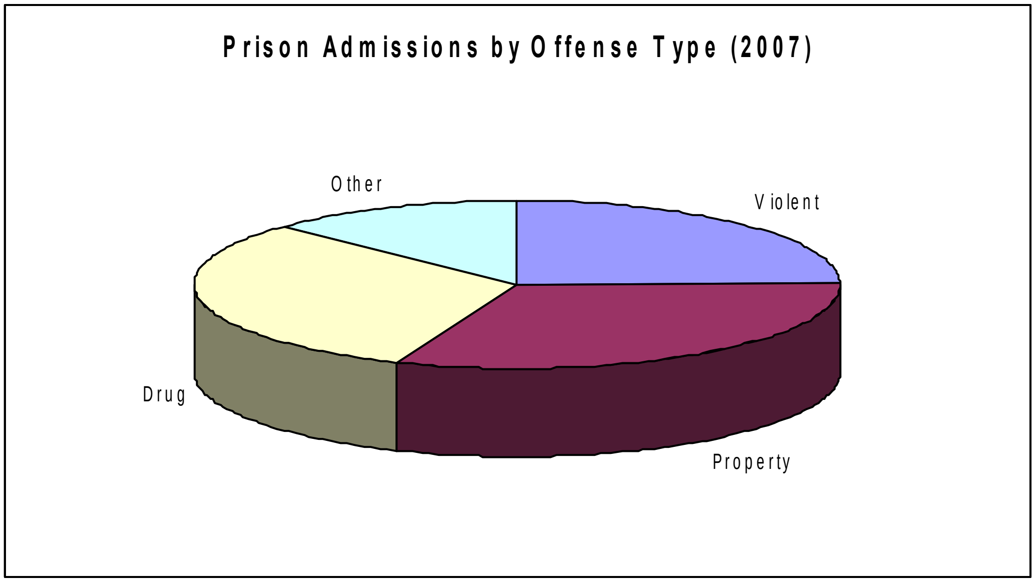
Background. The CDCR currently has about 170,000 inmates and 124,000 parolees under its jurisdiction. These populations have more than doubled over the past twenty years. Most inmates are sentenced to state prison for nonviolent crimes, particularly property or drug offenses. However, because inmates with violent offenses generally serve longer terms than nonviolent offenders, inmates convicted of violent crimes make up more than half of the total inmate population.

Figure 2

Growth in Inmate and Parole Population



Source: 2009-10 Budget Analysis Series: Judicial and Criminal Justice, Legislative Analyst's Office



Inmates sent to state prison are first sent to reception centers for evaluation and assessment. Most inmates are then sent to live in the "general population" based on a classification of their risk to escape or be violent while incarcerated. The CDCR assigns inmates a classification ranging from Level I (low security) to Level IV (maximum security). Inmates who commit rules violations in prison – such as assaults, possession of contraband, or participation in gang activity – are housed in administrative segregation (ASU) or Security Housing Units (SHU). About 10,000 inmates are housed in contracted facilities located in California or other states. Due to a lack of traditional housing space available, the department currently houses roughly 15,000 inmates in gyms and dayrooms.

Adult Inmate Population by Security Level

(2007-08)

Security Level	Number
Males	160,048
I	18,179
II	35,005
III	36,266
IV	21,111
Reception center	25,225
ASU	7,322
SHU	3,012
Death row	635
Contracted	10,256
Other	3,037
Females	11,170
Total Inmates	**171,218**

ASU: Administrative Segregation Unit
SHU: Security Housing Unit
Other: Civil Addicts, immigration holds, hospital

The largest share of parolees are supervised by parole agents on standard caseloads (referred to as control services supervision level). However, a large number of parolees are on specialized caseloads. These include sex offenders (and some gang members) on GPS caseloads, parolees at risk of becoming third strikers, and mentally ill offenders.

Adult Parole Population

(2007-08)

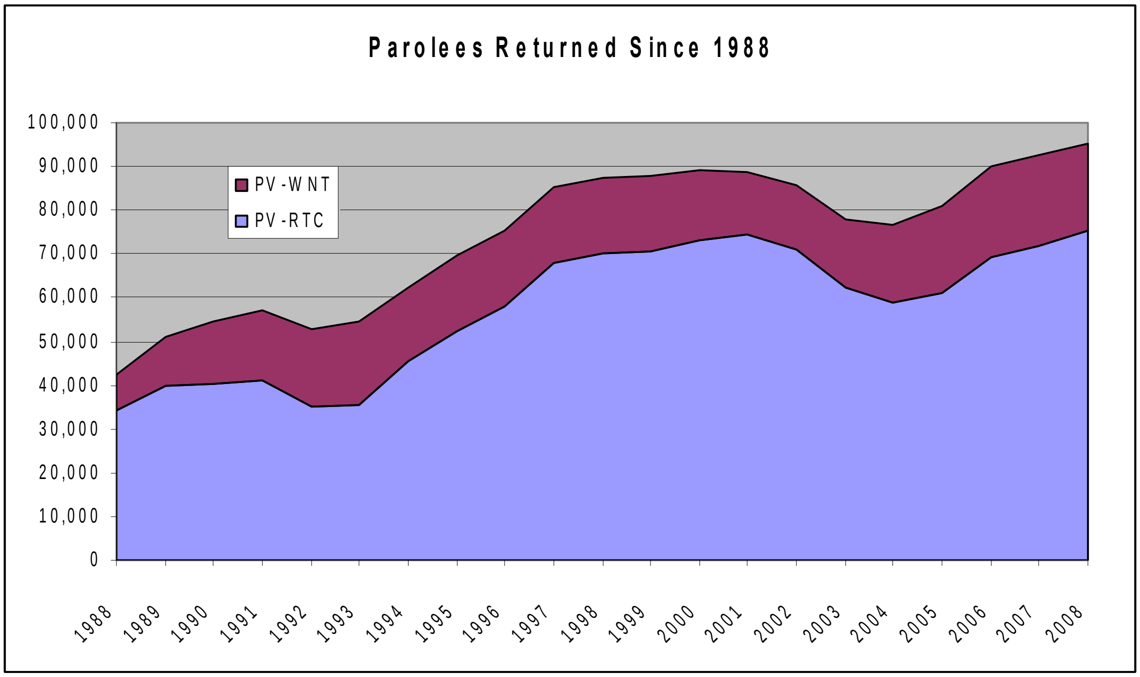
Caseload Type	Number
Minimum supervision	29,824
Control services	53,730
High control	15,548
Active GPS	2,539
Passive GPS	3,819
Second striker	9,415
Mental health	1,563
Deported (and pending)	15,992
Total	***132,430***

Potential Questions for CDCR and LAO.

- What factors have driven CDCR population increases the most?
- How much are the department's inmate and parolee caseloads projected to increase in coming years? How will this growth affect overcrowding levels?
- How does overcrowding affect the ability of wardens to manage prison operations, including ensuring staff safety and the fulfillment of the department's rehabilitation mission?
- What is the status of the department's Master Plan for housing and construction which was required to be presented to the Legislature in January?

Recidivism and Rehabilitation

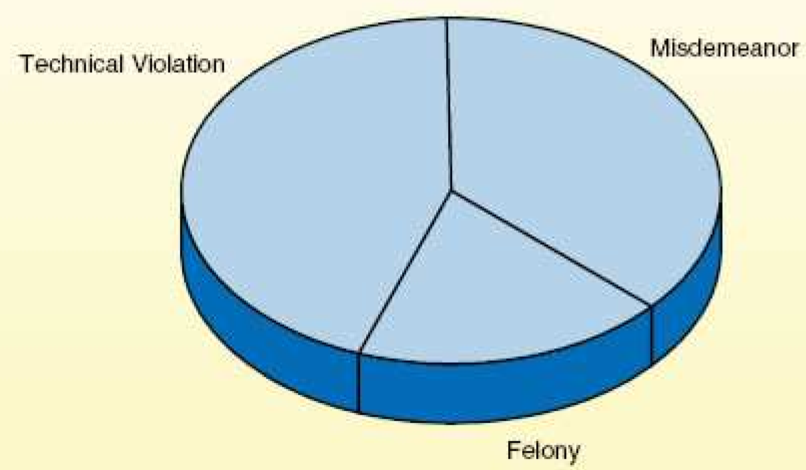
Background. In 2008, there were about 95,000 parolee returns to prison. (This includes some parolees who may have been returned multiple times in the same year.) Most of these parolees were returned via the state's administrative revocation process, administered by the Board of Parole Hearings (BPH), while about 20,000 of these parolees were returned by the trial courts based on convictions for new felony offenses.



Of the offenders returned to prison by BPH, most are returned for non-felony offenses, either for technical violations that involve a violation of their conditions of parole or for misdemeanor crimes. Parolees returned by BPH can serve up to a year in prison for their violation, though the average length of stay is about 4 months. The department is currently implementing a court settlement in the case of *Valdivia v Schwarzenegger* which requires the state to ensure timely revocation hearings, that parolees have attorney representation during hearings, and that community-based alternatives to reincarceration be available.

Figure 9

Most Parole Violators Returned by CDCR for Technical Violations and Misdemeanors



Source: 2009-10 Budget Analysis Series: Judicial and Criminal Justice, Legislative Analyst's Office

Numerous studies have shown that the recidivism rate in California is among the worst in the nation. About two-thirds of all prison admissions in California are parole violators while the other third are sent to prison as new admissions from the criminal courts. This contrasts the pattern nationally where in all other states more than two-thirds of prison admissions are new convicts sent by the courts, and less than one-third are parole violators. No single factor explains California's high recidivism rate. However, researchers and analysts point to several key factors.

- ***Mandatory Parole.*** In California, all inmates go onto parole when first released from state prison, generally for a period of three years. This means that all offenders leaving prison are subject to community supervision and subject to revocation. By comparison, many other states release some inmates, typically lower-level offenders, from prison without parole supervision. Most other states either have an indeterminate sentencing system, where a parole board has the discretion to determine release from prison based on the inmate's readiness for release, or they reserve parole only for their most serious offenders.

- ***Historical Culture Focused on Punishment.*** Numerous researchers have pointed out that CDCR has been for a number of years an organization focused on incarcerating inmates. This has meant that other areas of operations – such as rehabilitation programming and mental health treatment – were lower priorities and given fewer resources. In recent years, the Legislature and administration have made efforts to bolster these previously neglected areas of operations.

- ***Lack of Effective Rehabilitation Programs.*** The department lacks sufficient capacity in its education, substance abuse, employment readiness, and other programs designed to reduce recidivism to meet the needs of the inmate population. For example, while three-quarters of California inmates are unable to read at a high school level, less than 10 percent are enrolled in an academic education program. In addition, there have been concerns raised with how well the department delivers the programs that do exist. For example, the Office of the Inspector General released a 2007 report that identified numerous problems with how the department managed its in-prison substance abuse programs, resulting in the programs being delivered in ways inconsistent with the treatment model upon which they were based. Another study found that half of all inmates exit California prisons without participating in *any* rehabilitation program or work assignment during their *entire* prison sentence.

- ***Few Community-Based Alternatives.*** California does not have an extensive set of alternative punishment options that parole agents can use to sanction parole violators in the community. Many other states have developed alternative sanctions such as day fines, community service, day reporting centers, more intensive supervision and drug testing regimens, and electronic monitoring. Specifically, a system of graduated sanctions – where the severity of the sanction is matched to the severity of the violation and the offenders violation history – can ensure that parole agents have the tools necessary to respond quickly and appropriately to even minor violations, while ensuring that revocation to prison is reserved for only the most serious and repeat offenders.

Rehabilitation Program Participation

(2007-08)

In-Prison Education	**Enrollment**	**Average Daily Attendance**
Academic	14,347	7,497
Vocational	9,132	4,661
Substance Abuse Treatment	**Program Slots**	**Percent Completed**
In-prison	9,869	65%
Parole	4,642	54%
FOTEP	409	42%
Parole Employment Programs	**Program Slots**	**Parolees Served**
Offender Employment Continuum	2,100	1,212
Employment Development Department	2,520	3,423
Parolee Employment Program	2,100	2,810

Computerized Literacy Learning Centers	--	3,303
Parole Residential Programs	**Program Slots**	**Parolees Served**
RMSC	729	3,454
Parolee Service Centers	845	5,291
Community Based Coalition	360	1,400

In recent years, both the Legislature and the current administration have recognized that reducing recidivism carries the promises of significant improvements to public safety through reduced victimizations, reduced taxpayer costs for prison operations and construction, and better prison operations and safety because of reduced overcrowding. Based on this recognition, the Legislature has provided significant additional funding for rehabilitation programs and related efforts. This includes about $90 million annually for various programs, as well another $50 million appropriation provided as part of AB 900 (Solorio). The Legislature has also provided additional funding to expand the capacity of mental health, substance abuse, and employment programs for parolees.

Utilizing resources provided by the Legislature, the administration has made significant efforts to design and implement a validated risk and needs assessment that can be administered upon intake as well as periodically in prison and prior to release to parole. The CDCR has begun, on a pilot basis, to use the risk and needs assessments to develop individualized case plans to assign inmates to the most appropriate programs (referred to as the “Proof Project”). The department also developed the Parole Violations Decision Making Instrument (PVDMI), a tool designed to ensure more consistent and appropriate decisions by parole agents responding to parole violations.

Potential Questions for CDCR and LAO.

- What progress has the department made in implementing change required under the *Valdivia* settlement? How long will it be before the department is able to fully comply with those requirements?
- What progress has the department made in addressing the concerns raised by the OIG and other organizations regarding the provision of in-prison programming? What efforts has the department made to ensure that substance abuse and other evidence-based programs are delivered in ways consistent with the models upon which they are based?
- What is the status of efforts to implement risk assessments, expand in-prison and parole programs, and develop the PVDMI?
- What processes or systems does the department have in place to measure ongoing improvements in the performance of programs? Has the department set specific outcome goals for each of its programs?

Inmate Health Care

Background. The state budget includes over $2 billion for the provision of health care services to state inmates. This comes to approximately $13,000 per inmate.

2009-10 Inmate Health Care Budget
(General Fund, in millions)

Program	Budget
Medical	$1,208
Mental Health	357
Dental	181
Ancillary Services	196
Security	262
Administration	61
Total	**$2,264**

All three areas of inmate health care – medical, mental, and dental health – are under some level of federal court intervention. In each of these areas, CDCR was found to be providing insufficient levels of health care services with the deficiencies significant enough that the department's failures violated the Constitution's prohibition on cruel and unusual punishment. The most significant intervention is in the case of *Plata v Schwarzenegger* where the federal courts have appointed a Receiver to manage the day to day operations of the prison medical system. In the cases of *Coleman v Schwarzenegger* and *Perez v Schwarzenegger*, Special Masters have been appointed to oversee the department's provision of mental health and dental programs, respectively. In each of these cases, the department and inmate attorneys have developed plans to improve the quality of care in the prisons, usually through a combination of increased staffing levels, quality improvements, and construction or renovation of in-prison health facilities.

Mentally Ill Offender Population in Prison

Caseload	2005-06	2006-07	2007-08
CCCMS	26,612	27,080	28,249
EOP	3,883	4,115	4,413
Totals	***30,495***	***31,195***	***32,662***

CCCMS: Correctional Clinical Case Management System
EOP: Enhanced Outpatient Program

Potential Questions for CDCR and LAO.

- What progress has the department made in implementing the remedial plans for *Coleman* and *Perez*? What are the next steps to be taken in improving the provision of mental and dental health care in the prisons?
- What factors have driven the increase in inmate health care costs the most? To what extent have costs for security, pharmaceuticals, and contracted staff increased, for example?
- Has the Receiver's office given any indication as to how it will implement the 10 percent reduction to its budget as proposed by the Governor and included in the 2009-10 budget?

Lifer Hearings

Background. There are over 31,000 inmates in California serving life terms with the possibility of parole (including third strikers), twice the number from ten years ago. Under current state law, these offenders are eligible to be considered for parole at hearings after serving their minimum sentence, and periodically thereafter. A panel of BPH commissioners and deputy commissioners conduct these parole suitability hearings. In 2004, a federal court found that the department was violating the rights of inmates by not holding these hearings in a timely manner. Under the settlement agreement in the *Rutherford v Schwarzenegger* case, the CDCR is required to reduce the backlog of unheard parole suitability hearings. Departmental efforts to reduce the backlog involve developing a centralized scheduling and tracking system, hiring additional staff to complete psychological evaluations in a timely fashion, and hiring additional staff to ensure that reports for the commissioners and attorneys are prepared in advance of the hearings. As of September 2008, the backlog of lifer suitability hearings was about 950 cases. This was a decrease from the beginning of the calendar year when it was at 1,300 cases.

Number of Parole Hearings for Lifer Inmates

	2006	2007	2008*
Hearings scheduled	6,954	5,520	6,756
Hearings held	4,657	3,868	3,185
Hearings postponed	2,235	1,605	2,588

** Through November 2008*

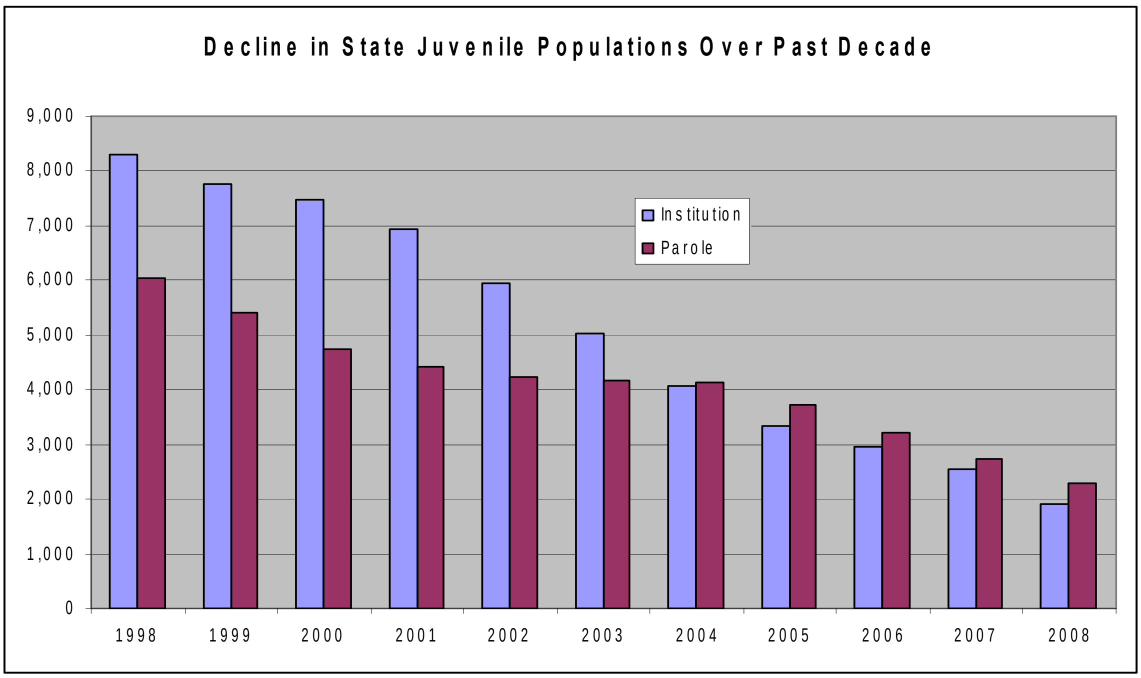
Proposition 9, passed by voters in November 2008, required significant changes to the state's lifer consideration hearings process. In particular, the initiative entitled lifer inmates to less frequent parole consideration hearings. In addition, the initiative expands the rights of victims to participate in lifer hearings.

Potential Questions for CDCR and LAO.

- What is the status of the department's efforts to comply with the settlement agreement in the *Rutherford* case? What additional steps still need to be taken to come into full compliance?
- How will the enactment of Proposition 9 affect the backlog of lifer consideration hearings?
- What factors have driven the significant increase in the lifer population?

Division of Juvenile Facilities

Background. The CDCR is also responsible for supervising juvenile offenders sent to state facilities. Under recently enacted Chapter 175, Statutes of 2007 (SB 81, Committee on Budget and Fiscal Review), only the most serious and violent juvenile offenders may be sent to state facilities. The more restrictive eligibility requirements under SB 81 are designed to ensure that more juvenile offenders are supervised and treated in their home communities. Consequently, SB 81 is projected to contribute to a continued decline in CDCR's juvenile population which has dropped dramatically over the past decade. Prior to SB 81, the decline in the state's incarcerated juvenile population was attributed to several factors, including declining juvenile crime rates, increased state investment in the county juvenile probation system, and a sliding scale payment system that required counties to pay a greater share of the state costs, particularly for lower level juvenile offenders.



In 2004, the state entered into a consent decree in the case of *Farrell v Schwarzenegger* that required CDCR to remedy a broad range of deficiencies in its juvenile corrections system as identified by a number of experts appointed by the federal court. As a result, the department agreed to reform the state's juvenile justice system and implement a rehabilitative model based on a therapeutic environment. The CDCR developed reform plans in the areas of Education, Wards with Disabilities, Mental Health, Health Care Services, Sex Behavior Treatment, and Safety and Welfare, all areas the experts had found to be significantly deficient. The department is implementing a recent lawsuit settlement in the case of *LH v Schwarzenegger*. This case is similar to the *Valdivia* case for adult parolees and requires that juvenile parolees receive timely parole revocation hearings and be represented by counsel during those hearings.

Wards in Rehabilitation Programs

Program	2005-06	2006-07	2007-08
Education (ADA)	1,816	1,475	1,213
Substance abuse treatment	280	281	158
Sexual behavior treatment	198	198	214

Potential Questions for CDCR and LAO.

- To date, how has the enactment of SB 81 affected the make up of the department's DJF population?
- What progress has the department made in implementing the *Farrell* remedial plans? What are the additional steps necessary to meet the requirements of those plans?
- What progress has the department made in implementing *LH*? What additional steps are still necessary to address the courts concerns in this case?
- How much has it cost the state to implement the *Farrell* and *LH* reforms?
- How has the enactment of SB 81 affected the department's ability to implement *Farrell* reforms?
- How have (1) the projected declines in the ward population and (2) the increased requirements under *Farrell* affected the department's juvenile housing plan? Will the department require more housing and program space, or less in the longer term?

Discussion Item – Department of Corrections and Rehabilitation (5225)

Overtime Base Budget Adjustment

Background. Most posts to which correctional officers, sergeants, and lieutenants are assign are “posted” positions that generally must be filled at all times in order maintain the safety and security of the prison. Therefore, when officers are absent from a shift because of vacation or sick leave, regular days off, a vacancy, or other reasons, the post must be filled by another officer. Prisons have relief officers available to fill in for many of those absences. In many other cases, though other officers are asked or required to work overtime to cover for the absent officer. Officers also work overtime when their work hours extend past the end of their shift which can happen, for example, when transporting inmates to outside medical visits or court proceedings. Officers receive “time and a half” pay when they work overtime.

The department reports a base overtime budget of $104 million.

Governor’s Budget Request. The Governor requests $35.7 million in the budget year and ongoing from the General Fund in additional overtime funding for correctional staff. This funding is meant to account for the increase in costs for overtime due to the increase in correctional officer salaries provided through employee MOU’s since 2000.

	2008-09
General Fund	$35,702,000
PY’s	--

2009-10 Enacted Budget. Deleted without prejudice.

LAO Recommends Rejection. The LAO finds that the administration has not fully justified its proposal. In particular, the department did not attempt to estimate its actual need for overtime funding based on relevant factors such as vacancy rates, utilization of sick leave and vacation, and frequency of operational activities that drive overtime costs. The LAO reports that CDCR actually spent $656 million on overtime in 2007-08, exceeding its budgeted authority by hundreds of millions of dollars. Yet the department has not identified which factors have driven costs to these levels, nor has the department provided a plan for how it will contain these costs in the future. Finally, the LAO finds that CDCR has not actually provided a true accounting of its base funding for overtime. The Legislature has approved various augmentations to the department’s overtime budget in recent years — totaling about $49 million — to account for costs associated with medical transportation of inmates and the use of administrative segregation housing. In addition, the *2004-05 Budget Act* included an additional $100 million to provide the department with hundreds of additional relief officers.

Based on these findings, the LAO recommends rejection of the proposal due to insufficient justification and lack of a cost control plan. The LAO also recommends adoption of supplemental report language requiring CDCR to report on (1) the extent to which different factors drive overtime costs, (2) an estimate of the department's actual need for overtime funding, and (3) a plan for how it will control overtime expenditures in the future.

Staff Comments. The LAO raises reasonable concerns about the lack of justification for this request. Of particular concern is that the department has been unable to fully attribute dramatic increase in overtime spending – which more than doubled over the past five years – to specific causes. Consequently, the department has been unable to identify a plan to contain these costs in the future. While the department may in fact have a significant deficiency in this item of expense, it does not appear that the department has provided sufficient information to justify an augmentation, particularly in light of the state's ongoing fiscal condition.

Therefore, the committee may want to ask the department to address the following issues:

- Why CDCR overtime costs doubled in past five years despite Legislative investments in additional relief positions and expansion of the correctional officer training academy, both designed to reduce reliance on overtime;
- The degree to which various individual factors have caused the increase in overtime spending over the past several years;
- Development of an estimate of what a reasonable level of overtime funding should be in light of actual leave usage patterns, the availability of relief officers, and other relevant factors such as the frequency of medical transports;
- When the department will be able to provide the Legislature a plan on how it will contain overtime costs on a permanent basis.

Inmate Population Budgeting Issues

Background. The Governor's 2009–10 budget proposal was based on CDCR's fall 2008 caseload projections. These projections, which reflect revisions to previous projections issued by the department, are summarized in the figure below. (These are "baseline" projections and do not account for population changes proposed by the Governor to significantly reduce the inmate and parole populations.)

Adult and Juvenile Caseload Projections

	2008-09			2009-10	
	Budgeted Population[a]	Fall 2008 Projection[a]	Change From 2008-09 Budget	Fall 2008 Projection[a]	Change From 2008-09 Budget
Adult inmates	169,704	170,421	717	170,020	316
Adult parolees	121,576	120,661	-915	117,603	-3,973
Juvenile wards	1,756[b]	1,717	-39	1,551	-205
Juvenile parolees	1,979	2,096	117	1,744	-235

Source: 2009-10 Budget Analysis Series: Judicial and Criminal Justice, Legislative Analyst's Office

Governor's Budget Request. The Governor's budget includes a net increase of $27 million in the current year and a net budget–year reduction of $9 million (all funds), largely related to the projected changes in the adult and juvenile offender caseloads. The department's caseload–related request also includes funding adjustments related to other housing and supervision related activities, such as the use of contracted facilities. The figure below summarizes the funding adjustments included in the Governor's budget for caseload–related changes.

Summary of CDCR Population Budget Request Changes

(In Millions)

	2008-09	2009-10
Adult Offenders		
State institutions	$66.0	$21.3
Board of Parole Hearings	0.8	6.7
Parole services	0.8	0.4
Inmate health care	0.2	12.2
Local assistance	—	15.2
Parole supervision	-18.3	-29.1
Contracted facilities	-25.2	-9.5
Subtotals	($24.2)	($17.1)
Juvenile Offenders		
DJJ facilities	$1.8	-$26.8
DJJ parole	1.1	0.6
Subtotals	($2.8)	(-$26.1)
Totals	**$27.0**	**-$9.0**

Detail may not total due to rounding.

Source: 2009-10 Budget Analysis Series: Judicial and Criminal Justice, Legislative Analyst's Office

2009-10 Enacted Budget. Approved as proposed, but likely to be modified during May Revision.

LAO Findings. The LAO finds that (1) actual population is trending higher than assumed in the budget, (2) aspects of the caseload request may be overstated, and (3) CDCR made little progress developing its new budgeting process. The LAO recommends that the Legislature withhold action on CDCR's caseload request until the May Revision. It will continue to monitor the department's caseload and recommend any changes, if necessary, following review of the May Revision.

- ***Actual Adult Populations Trending Higher Than Projected.*** Over the first six months of the current fiscal year, the adult inmate population has averaged about 700 inmates higher than the current projections. The adult parole population has averaged about 300 parolees higher than projected over the same period. If these trends hold for the remainder of the fiscal year, it would result in additional annual costs of about $17 million.

- ***Aspects of the Caseload Request May Be Overstated.*** Three of the adjustments made in the population budget request appear to be overstated. First, the department requests $9.4 million in the current and budget years for staff overtime costs at administrative segregation units. However, the LAO finds that the department has not provided sufficient justification for why administrative segregation costs have increased, and the LAO notes that the Office of the Inspector General recently released a report finding that CDCR may be overutilizing administrative segregation at a cost of about $11 million annually.

  Second, CDCR's request appears to overstate the number of adult sex offenders supervised on parole, potentially by more than 1,000 parolees. The LAO estimates that correcting for the actual parolee sex offender caseload could reduce the department's budget in each of the current and budget years by about $13 million.

  Third**,** CDCR is requesting $11.5 million and 279 positions in the budget year to accommodate increases in the population of inmates requiring mental health care in order to comply with federal court orders in the *Coleman v. Schwarzenegger.* However, the LAO notes that the department had nearly 1,000 vacancies in its mental health program and that it is unclear if the department could realistically fill these new positions in addition to its 1,000 existing vacancies by June 30, 2010.

- ***Department Made Little Progress Developing New Budgeting Process.*** In past analyses, the LAO found that the current process CDCR uses to budget for caseload changes is an ineffective approach to identifying the actual budgetary needs of the department, is an inefficient use of department staff time, and fails to provide a transparent budget document for legislative review. Consequently, the Legislature approved provisional language requiring CDCR to develop a new caseload funding methodology for legislative consideration by January 10, 2009. While the department expresses ongoing support for improving its methodology, it did not meet the legislative requirement. Moreover, the department indicates that it will not be able to present a new methodology to the Legislature before the end of the current fiscal year. The LAO recommends that the Legislature require CDCR to report at budget hearings on its efforts to date in developing an improved caseload budgeting process. The LAO further recommends that the Legislature adopt budget bill language requiring CDCR to improve its budgeting process in the budget year.

Staff Comments. The committee may wish to ask the department for an update on its caseload and its process for developing a new budgeting process. The committee may also wish to ask the department to address the LAO's concerns regarding possibly overstated aspects of CDCR's caseload request related to (1) administrative segregation, (2) sex offender parole population, and (3) mental health positions.

Federal Workforce Investment Act (WIA) Funds

Background. The CDCR currently operates various employment training and referral programs for adult parolees at a total cost of about $35 million in the current year. Of this amount, $9.5 million is funded from federal Workforce Investment Act (WIA) funds. The remainder is funded from the General Fund.

Governor's Budget Request. For the budget year, the Governor's budget proposes to reduce the amount of WIA funds for parolee employment programs to $2.3 million in order to augment selected workplace training programs. These proposed actions result in a General Fund cost of $7.2 million.

2009-10 Enacted Budget. Approved as proposed.

LAO Recommendation. Given the state's severe fiscal condition, the LAO recommends that the Legislature restore the $7.2 million in federal WIA funds to CDCR parolee employment programs in the budget year. This redirection will result in an equal amount of General Fund savings. In its most recent publication, *2009-10 Budget Analysis Series: The Fiscal Outlook Under the February Budget Package*, the LAO notes that additional savings may be possible due to the federal stimulus package.

Staff Comments. The LAO's recommendation is consistent with legislative actions taken in prior years made to minimize state General Fund costs. These actions have also ensured ongoing funding for parolee employment programs which have been found in the national literature to be cost-effective programs that can successfully increase offender employment and reduce recidivism.

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, March 26, 2009
9:30 a.m. or Upon Adjournment
Room 112

Consultant: Bryan Ehlers

Governor's Reorganization Plan No. 1 (Information Technology) Introduced to the Legislature on March 10, 2009

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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.

Governor's Reorganization Plan (GRP) #1 – Information Technology (IT) Consolidation

On March 10, 2009, the Governor submitted to the Legislature his plan (also known as GRP #1—see Appendix H for the full text) to consolidate various statewide IT organizations and functions under the Office of the Chief Information Officer (OCIO). According to the Administration, GRP #1 is premised on the notion that, while IT permeates all aspects of state government, California IT lacks the broad and cohesive organizing logic necessary to best optimize limited state resources. In answer to this problem, the Governor proposes a "federated" governance model, in which the OCIO would enjoy enhanced authority over various IT services and functions while leaving some "local control" at the agency and department levels. In addition to improved service, the Administration anticipates the increased IT coordination and efficiency made possible under the reorganization plan would generate an estimated $1.5 billion in savings over the next five years. Figure 1 below contains a brief overview of the key components of the plan.

Figure 1

IT Organizations and Functions Proposed for Consolidation

Organizations	Positions*	Funds* (in millions)
Office of the Chief Information Officer (OCIO)	34	$7.1
Department of Technology Services (DTS) – including the Technology Services Board	801.8	$278
Department of General Services, Telecommunications Division (DGS-TD)	368	$223
Office of Information Security and Privacy Protection (OISPP) – information security functions	6	$1.5

*As authorized by the Budget Act of 2008.

Functions	Currently Performed By:
Enterprise (Statewide) IT Management	None
Enterprise (Statewide) Information Security	OISPP
Data Center & Shared Services	DTS
Unified Communications Services (voice/video/data networks and radio systems)	DTS & DGS
IT Human Capital Management	OCIO & DTS
IT Procurement Policy	DGS
Broadband & Advanced Communications Services Policy	Business Transportation & Housing Agency (BT&H)

A Note on Process

Pursuant to the government reorganization process specified in statute (see Appendix A), the Legislature has 60 days to consider the Governor's IT reorganization plan. During the first 50 days, the plan may be heard in standing committee, after which time (or following an earlier committee report), a resolution, by floor motion, may be made for dispensing with the proposal "as is" (i.e. without amendment). Barring action by either house to deny it, the plan would take effect May 10, 2009—on the 61st day after the date of submission to the Legislature (March 10, 2009).

Staff notes that the GRP process described above limits legislative flexibility by requiring a proposal to be considered "as is." To the extent that the Legislature might wish to amend the proposal, one or both houses would have to deny the plan by majority vote and then take up a bill to amend the relevant statues. However, in weighing this option, the Legislature should bear in mind that a government reorganization cannot take effect through an urgency statute, and therefore any alternative plan would not take effect until January 1, 2010, more than seven months after the effective date of GRP #1. Therefore, members must weigh whether any risks associated with the Governor's plan (which, through a more flexible process, could be amended by the Legislature) would be outweighed by the benefits of early enactment.

The Existing IT Governance Structure

As summarized above, GRP #1 proposes consolidating multiple state IT organizations and functions, currently distributed across various entities, under an expanded OCIO. The following is a brief description of the existing IT governance structure (Appendix B provides the historical context for how this structure came into being):

- **OCIO** – The OCIO was established in 2006, augmented in 2008, and is responsible for many activities, including developing and enforcing the state's IT plans, policies, and standards; conducting IT project review, approval, and oversight; and promoting the efficient and effective use of IT in state operations. The Chief Information Officer (CIO) is a member of the Governor's Cabinet and advises the Governor on the strategic management of the state's IT resources.
- **DTS** – The DTS was established when the Teale Data Center and Health & Human Services Agency Data Center were consolidated under a previous reorganization in 2005. As part of the State and Consumer Services Agency (SCSA), DTS provides IT services to state, county, federal, and local entities throughout California on a fee-for-service basis. Technology services include application and equipment hosting, storage, computing, networking, and training.
- **Technology Services Board (TSB)** – The TSB was also established as part of the 2005 data center reorganization and it governs DTS, setting policy on services provided by the department, and reviewing and approving DTS' annual budget and rates. The TSB is chaired by an appointee of the Governor (currently the CIO), and consists of top executives from all Cabinet agencies and the State Controller's Office.
- **OISPP** – The OISPP, also within SCSA, is made up of two offices. The Office of Information Security is responsible for ensuring the confidentiality, integrity, and availability of state systems and computer applications and for protecting state

information. The Office of Privacy Protection promotes and protects privacy rights of consumers.

- **DOF** – The DOF has responsibility for establishing and enforcing state IT strategic plans, polices, standards, and enterprise architecture, including the periodic review and maintenance of the information technology sections of the State Administrative Manual, except for sections on information technology procurement, information security and information technology fiscal policy. Additionally, the DOF performs fiscal oversight of the state's information technology projects.
- **DGS** – The DGS has responsibility for actual procurement of IT procurement policy and procedures, and is home to the Telecommunications Division, which provides engineering and technical support services for public safety-related communication systems. DGS-TD consists of (1) the Office of Public Safety Communications Services, which provides engineering and technical support services for public safety related communications systems; and (2) the 9-1-1 Emergency Communications Office, which provides oversight of the 9-1-1 network and approximately 500 police, fire, and paramedic dispatch centers.
- **BT&H** – The Governor designated the BT&H as the lead coordinator for implementing broadband policy in a late-2006 executive order.

The Proposed IT Governance Structure

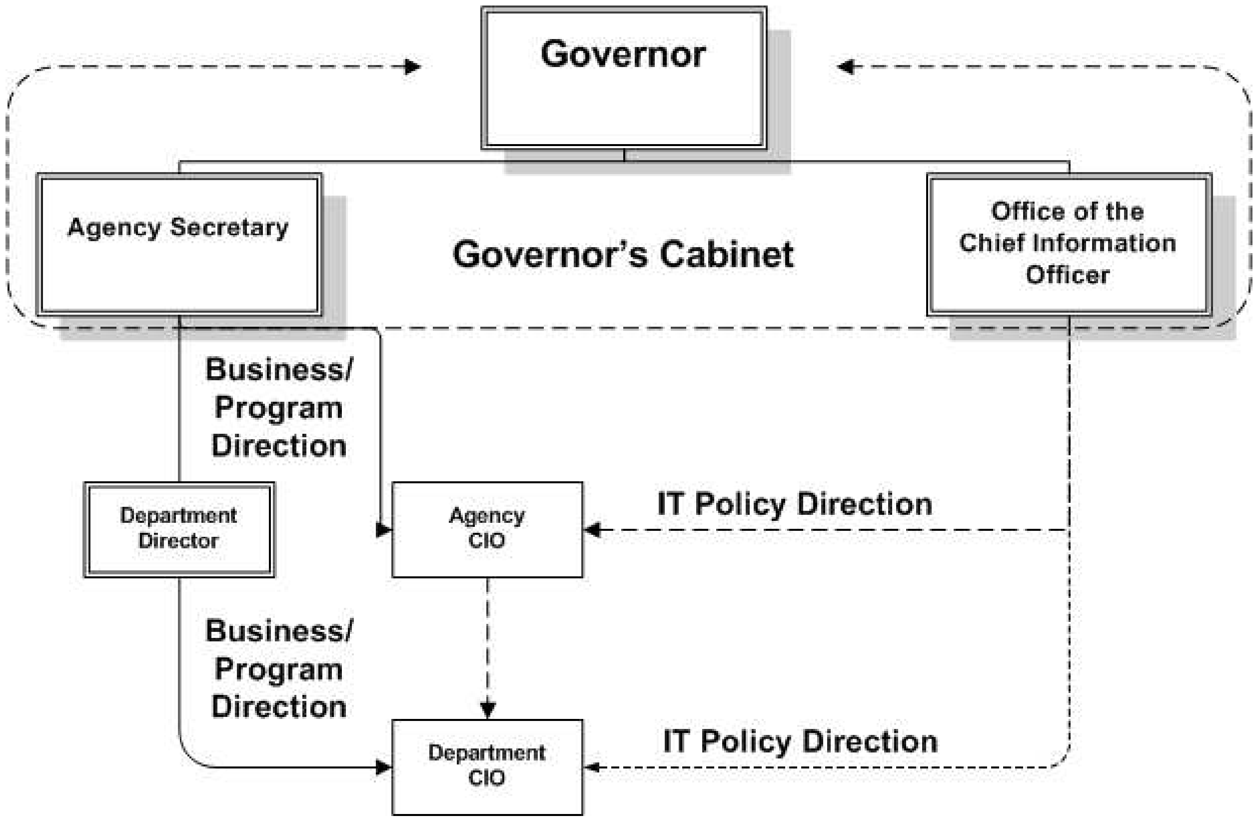
GRP #1 would consolidate most of California's existing IT governance structure under the OCIO. Notably, IT procurement and security policy would be transferred out of the DOF and OISPP, respectively, while provision of data center and telecommunications services would shift to the OCIO from the DTS and DGS-TD, respectively. All told, the OCIO would absorb approximately 1,200 state employees (see Appendix C for a revised organizational chart) and $500 million in funding from other departments. These resources would be put to use under a new "federated" IT governance model.

The Administration describes a "federated" IT governance model as follows:

> *Federated IT governance establishes the relationship among the Agencies, departments, and the state CIO. The federated governance model maintains the authority of agencies to manage program-specific IT processes and systems. IT functions that are common across the entire state are managed at the enterprise* [statewide] *level for all agencies by the central IT organization. The federated governance model confirms that programmatic needs are the primary drivers for IT decisions and acknowledges the importance of IT as an enabler of agency success.*

Put another way, within the federated IT governance organizational chart, the state CIO would have a "dashed" (as opposed to a solid) line of authority to the Agency and departmental CIOs (see Figure 2 below). Agencies and departments would be obliged to follow statewide IT "direction" (e.g. new procurement and data center policies) set by the OCIO, but would not be required to seek or obtain OCIO approval for all IT decisions. For example, agencies would continue to provide program policy and direction, prioritize Agency IT investments, and carry out consolidation of IT resources to reduce operational costs. Likewise, departments would provide local desktop/LAN support, manage business specific applications and purchase IT resources necessary for department activities.

Figure 2 – Federated IT Governance Framework



Staff notes that the proposed governance model is a compromise between a fully centralized, "top-down," command and control model—in which a single IT executive controls all IT assets and oversees all IT decisions statewide—and a decentralized model—in which strategy and policy setting authority is highly diffuse and IT decisions are largely (or entirely) delegated to lower levels of government (and away from the executive). As described in Appendix A, California has gradually consolidated its IT governance structure over the last several years (consistent with recommendations from several outside organizations), and it is safe to say that the proposed reorganization would move the state farther along the continuum toward centralization than at any time since the closure of the Department of Information Technology (DOIT), though significantly shy of total command and control.

The Administration's Case for the Reorganization

As discussed at greater length in the Staff Comments, GRP #1 is a response to a perceived problem. The Administration is essentially arguing that California's approach to IT is considerably less efficient and effective than it could be and that a consolidation of IT authority and function would: (1) increase coordination and operational efficiency, allowing redundant equipment and activities to be eliminated, thereby reducing costs; and (2) promote streamlining of services in order to significantly improve their availability and quality.

While some evidence of an IT governance problem remains anecdotal or is most evident in the form of struggling IT projects, since her arrival in California, the CIO has endeavored to take a full accounting of the state's IT activities in order to put hard data behind the effort to identify root causes. To this end, the OCIO conducted a statewide survey in May 2008 in order to establish an IT baseline. Key findings of the survey included the following:

Top Line Information

- Operating expenditures of more than $3 billion annually.
- 130 individuals serving as CIOs or in an equivalent function within state agencies.
- More than 10,000 authorized positions in IT classifications (annual payroll/overhead in excess of $1.5 billion).

IT Projects

- More than 120 large IT projects under development with estimated budgets exceeding $6.8 billion over 11 years.
- More than 500 small to medium IT projects under development.

IT Human Capital

- More than 50% of the state's IT workforce will be eligible to retire within the next five years.
- Existing IT leadership capabilities require further development.
- Deferred spending on workforce development has resulted in skill gaps and shortages in key areas (e.g., project management and business analytics).

IT Infrastructure - Data Centers, Servers and Storage

- The state has approximately 409,000 sq. ft. of floor space in 405 locations dedicated to data centers and server rooms.
- Approximately 33 percent of data center floor space lacks sufficient disaster recovery and backup capabilities.
- The state owns and operates more than 9,494 servers. More than a third of these servers are at, or near, end of life (3+ years old).
- Agencies are operating 259 storage systems (159 Storage Attached Network (SAN) systems and 100 Network Attached Storage (NAS) systems).

IT Infrastructure – Desktop

- More than 200,000 desktops/laptops in use by Executive Branch agencies, with a refresh cycle ranging between three to five years.
- The average desktop in use requires 4 to 16 times more energy than a laptop computer operating with advanced power management.
- More than 100 different e-mail systems.
    - 180,000 active e-mail boxes.
    - 75 terabytes of storage (75,000 gigabytes).
    - 15 million e-mails per day.

IT Security

- Explosion in e-mail spam – ~95% of the e-mail the state receives each day is spam.

- The state's network vulnerability is projected to increase by more than 800 percent by 2018 if we maintain the current operating model.

Staff notes that the above findings provide a preliminary understanding of how the state uses IT and where it spends IT dollars, but California still lacks a complete and comprehensive accounting of all IT activities and expenditures (for example, neither the OCIO nor the DOF know exactly how much the state spends on independent IT contractors). However, notwithstanding this ongoing need for better data, the OCIO took the information gathered from the survey and reached the following conclusions, which inform GRP #1:

- *The State maintains a significant number of IT facilities, equipment, and staff across individual organizations. This provides an opportunity for consolidation, particularly with e-mail services.*
- *The State could improve governance, stakeholder buy in, and communication of IT investments by standardizing reporting relationships as well as roles and responsibilities within state agencies for setting IT priorities.*
- *The State could improve the management of IT resources by increasing the centralization of services.*
- *State data centers are a prime target for efforts to improve energy efficiency.*
- *Web and e-mail security threats are increasingly sophisticated.*

Based on these findings, the Administration developed GRP #1 and identified approximately $1.5 billion in cost savings and avoidances to be achieved over the next five years through consolidated contracts, servers, and data center space, strategic sourcing improvements, enhanced spending control, and reduced reliance on costly independent oversight contracts, among other things. Appendix E contains the line item breakdown of the cost savings and avoidances provided by the Administration, while Figure 3 below provides a high-level summary according to fund class.

Figure 3

DOF Estimate of IT Reorganization Savings Over Five Years (in millions)

Fund Type / Cost Avoidance or Savings	2009-10	2010-11	2011-12	2012-13	2013-14	Five-Year Total
General Fund (GF) Savings*	($86.2)	($94.9)	($96.5)	($98.2)	($98.2)	($473.9)
GF Savings & Avoidance	$102	$137	$208	$235	$244	$926
Other Fund Savings & Avoidance	$83.5	$112.1	$170.2	$192.3	$199.6	$757.6
All Savings & Avoidance	$185	$250	$378	$427	$444	$1,684

*Parentheses indicate non-add, as GF savings are already included in the "GF Savings & Avoidance" row.

Additional discussion of the savings estimates displayed above follows in the staff comments below; however, staff notes the following here:

- The GRP document submitted to the Legislature on March 10, 2009, did not contain any costing data. All of the above information (save for the $1.5 billion estimate over five years) has been provided in subsequent responses to legislative staff questions.
- At the time of this writing, the Legislature still lacked sufficient back-up detail from the Administration to validate the savings estimates provided.
- To date, the Administration has not articulated a plan for capturing or "scoring" the estimated savings.
- The savings identified above generally "ramp up" over the five-year period of the estimate because many benefits of the policy changes envisioned under the GRP would only accrue to the state in the out years when, for example, existing equipment would reach its end of lifecycle and be up for replacement.

Legislative Analyst's Office (LAO) Analysis

On March 9, 2009, the LAO transmitted its comments on GRP #1 to the Little Hoover Commission (see Appendix F for the full text) expressing guarded optimism that the planned consolidation could result in greater alignment of IT services and resources and produce some IT-related efficiencies and improvements on a statewide level. However, the LAO: (1) noted concern with the plan's overall lack of detail regarding implementation; (2) questioned the absence of a project management component; and (3) cautioned—as it has in the past on matters of IT governance—against the state taking on unnecessary risks by proceeding too rapidly with too many changes all at once. These issues and many others are examined below in the Staff Comments.

Staff Comments

GRP #1 represents one possible solution to a specific problem. In trying to assist the Legislature in determining whether GRP #1 is the *right* solution to the *right* problem, the staff comments below attempt to break down the Governor's proposal into "bight-size" chunks (without losing the "forest for the trees") and to raise questions based on fundamental analytical concepts and California's past experiences with IT. Logically, the comments begin by examining whether the Administration has appropriately defined the problem.

- **Problem Definition** – As noted previously, the Administration is essentially arguing that California's approach to IT is considerably less efficient and effective than it could be and that a consolidation of IT authority and function would (1) allow redundant staff activities to be eliminated, reducing costs; and (2) promote streamlining of services in order to significantly improve their availability and quality. This is not a new argument, and a significant number of pages have already been devoted over the past decade to investigating the issue in reports and analyses by the LAO, RAND, and the Little Hoover Commission, to name a few.

While it suffices to say here that there is general agreement among experts that California can and ought to more effectively and efficiently manage state IT, there is some divergence of opinion on how to confront the tradeoffs associated with any particular plan. For example, the Little Hoover Commission has come out aggressively in favor of consolidating virtually all IT authority under a strong OCIO. Few argue that this would generate greater efficiency of a certain kind; however, in a 2003 report on IT governance prepared on behalf of the California Bureau of State Audits, RAND pointed out that with consolidation (and the attendant standardization of policy and procedure) comes risk of potentially undesirable impacts like reduced equity of process in procurement, and/or a chilling effect on collaboration and innovation at lower levels of organization (where consolidation is experienced as disempowerment). In fact, RAND found that different states (including New York, Illinois, Virginia, and Pennsylvania) have managed to achieve IT governance success under a variety of governance models—including vesting widely divergent amounts of explicit authority in an IT executive.

While RAND recommended that California pursue a more "consolidated control" approach in the near term (discussed in more depth in Appendix D), its analysis should serve as a warning against any rush to embrace "silver bullet" solutions. To the contrary, the RAND findings suggest that the path to effective IT in state government requires a keen understanding of existing organizational structures and their political implications, as well as a thoughtful balancing of objectives and methods in changing those structures.

With this in mind, the Committee should carefully consider, and may wish the Administration to respond to, the following questions:

1. Specifically and succinctly, how does the Administration define the problem? Does the Administration's definition of the problem permit the proposed solution to be measured (either quantitatively or qualitatively, or both)? Performance measures are discussed in more depth below, but before allowing the GRP to take effect the Legislature should be satisfied that the proposed solution is not simply defined into the problem (for example, California's IT governance is insufficiently consolidated; therefore, we need more consolidation).

- **Performance Measures** – As noted above, the proposed solution to the state's IT "problem" should be measurable. Otherwise, how will we know if we're successful? Staff notes that, as submitted, GRP #1 does not contain a timeline (or milestones), nor does it identify a comprehensive set of performance metrics (with a starting baseline). In subsequent conversations with staff, the OCIO has provided an example of metrics applicable to a broad set of IT objectives (see the OCIO "Balanced Scorecard" contained in Appendix G); however, the Legislature still lacks the detail necessary to conduct proper oversight if the submitted plan were to go forward as submitted. Therefore, the Committee may wish for the Administration to respond to the following questions:

2. How long will it take to implement the proposed changes to California's IT governance, and by what milestones will we know progress is being made? When do we anticipate these interim milestones will be reached?

3. What specific metrics (both quantitative and qualitative) does the OCIO intend to apply to the reorganization process? Why are these metrics appropriate and what do they tell us?
4. For each metric, where are we today? What is the baseline against which the GRP's success would be measured?
5. How do the metrics chosen tie to savings estimates? For example, we anticipate cost avoidance due to reduced data center square footage, but what is the target level of square footage that must be achieved to realize this estimate? In a broader sense, on what assumptions do the Administration's savings estimates rest?
6. How does the Administration plan to "score" the savings? For example, what portion would be taken out of department and Agency budgets by reducing their appropriations, and what portion does the Administration propose to redirect?
7. How and when does the OCIO intend to report to the Legislature on the outcomes associated with each of the metrics identified above? Will we have the basis for a coherent ongoing dialogue on California IT governance as we move one, two, or five or more years down the road?

- **Risk Analysis** – Not surprisingly, the Administration has spoken with great certitude on the feasibility of GRP #1; however, any plan has risks, and the Legislature should be familiar with the risks of the Governor's plan before permitting it to take effect. Similarly, in order to properly weigh the GRP's risks and benefits, the Legislature should seek to better understand the risks associated with the status quo.

  Staff notes that the plan submitted to the Legislature includes no formal risk analysis and only scant anecdotal reference to risk of any kind (associated with the plan, the status quo, or otherwise). In testimony before Assembly Budget Subcommittee #5 on March 17, 2009, and in conversations with staff, the Administration has emphasized the degree to which participating organizations have already discussed and mitigated potential threats to successful completion of the plan, but has been less verbose in talking about the challenges (i.e., the risks) facing the plan.

  Given California's troubled past regarding IT governance, and the existence of an entire cottage industry whose existence owes itself to the difficulty of "change management" (particularly with regard to organizational culture), the Committee may wish for the Administration to respond to the following questions:

8. Over the implementation period of GRP #1 (five years?), what are the objective risks of the status quo (i.e., the current IT governance structure)?
9. What are the risks of the proposed plan—in which almost 1,200 state employees would report to a new boss? What are the challenges, particularly with regard to changing the culture among the current employees of DTS and DGS-TD? For example, one of the reasons for the proposed consolidation of authority is to drive changes in the way data center services are provided in order to improve efficiency and obtain savings (by moving away from a model in which "customer service" comes first regardless of cost). If this kind of culture change could not be accomplished under the current governance structure (at the urging of the CIO), what makes the Administration think that behaviors will suddenly change in the second week of May simply because

there's a new boss at the top of the organizational chart (who is now "directing" instead of urging)?

10. How does the Administration intend to mitigate the risks associated with the GRP? What specific resources (for example, personnel experienced in successful, large-scale change management) does the Administration plan to bring to bear in the mitigation efforts? How does the OCIO plan to mitigate frustration from departments (and Agencies), who are accustomed to getting exactly what they want with regard to IT, when they start to hear "no" from the OCIO? (For example, how were these issues managed when the data centers merged under DTS?)
11. What alternative solutions to California's IT problem did the Administration consider and dismiss, and why?
12. The LAO has noted concern with the scope of the plan relative to an apparently rapid implementation period, and has suggested that the state might be better advised to prioritize each component of the reorganization in order to take a more deliberate, phased approach (with some components to be implemented immediately and others to wait until future years). How does the Administration respond to this proposal? What are the strengths and weaknesses of this concept? Why shouldn't California take the "slow and steady" approach given what we know to be the costs of past IT governance failures (see more below on "lessons learned" from DOIT)?

- **Standardization and Centralization v. Flexibility and Autonomy** – As noted in the RAND report discussed in Appendix D, organizational consolidations are fraught with tradeoffs, most notably: (1) standardization of policy/procedure vs. flexibility; and (2) centralization of authority vs. autonomy. Additionally, the type of consolidation proposed by the Governor, also poses issues with regard to equity of process and outcome (particularly with regard to procurement). Therefore, the Committee may wish for the Administration to respond to the following questions:

13. For each organization and/or function proposed for consolidation, what is the anticipated benefit (in terms of savings, service, or any other reasonable standard)? How do the various components complement one another as a package?
14. What are the tradeoffs or drawbacks implicit to the particular IT governance solution proposed (for example, loss of flexibility/autonomy at lower levels of government, or decreased equity or competition in procurement)? How do these tradeoffs compare to other alternative solutions that the state might otherwise consider?
15. Do the benefits outweigh the costs either quantitatively or qualitatively (or both)? It does not appear that the Administration prepared a formal cost-benefit analysis for this proposal, but presumably it went through the thought process, so what important insights or conclusions came out of that process?
16. Increased consolidation and standardization are expected to increase the state's leverage over procurements (indeed, are necessary to achieve some of the projected cost savings). This will almost certainly increase the size of some (even most?) procurements such that some smaller vendors may have more difficulty competing in the new procurement environment. How does the Administration anticipate procurements will be affected, and how will it strike a balance between ensuring equity in the process while seeking the best possible price for the state?

- **Lessons Learned** – California has long struggled to establish effective IT governance; however, it is not entirely clear how the Governor's plan makes use of past lessons learned and whether it actively seeks to avoid repeating previous mistakes. The Committee may wish for the Administration to respond to the following questions:

17. What lessons learned from DOIT (or other California experiments in IT governance) are evident in GRP #1?
18. As proposed, the CIO would still have only a "dashed" line of authority over Agency and department IT. Overall lack of authority was one of the identified weaknesses that led to the downfall of DOIT. How does the CIO envision the "dashed" line would work in practice? How is the proposed model significantly different than the DOIT model? Why would it work any better?
19. IT project management is another identified weakness in California, yet this issue is addressed solely through a separate budget request for four new positions (to create a new Office of Project Management under the CIO), and not at all by the GRP. Why is a project management component absent from the GRP given the fact that: (1) there is broad consensus around the lack of effective IT project management; (2) there are major cost implications associated with project mismanagement; (3) there are major service implications when California cannot meet the needs of its citizenry through IT; and (4) there are major political implications to the ongoing perception that California just "can't get it right" when it comes to IT?
20. The LAO raises the absence of a project management component to the GRP as a potential lost opportunity, and suggests that the Legislature consider reassigning staff (after they complete their current projects) from the Office of Systems Integration (OSI) to projects with the highest statewide priority. (Note: The OSI is currently housed within, and is dedicated to projects for, the Health and Human Services Agency.) Notwithstanding the fact that the OSI statutes cannot be amended through the GRP process, how would the CIO use OSI resources to address struggling projects like 21st Century and FI$Cal? How does the CIO plan to keep these projects on course without these resources?
21. How is the GRP informed by public sector best practices? For example, when the OCIO was created two years ago, the Administration insisted, against the advice of the LAO, that IT security must reside in a separate agency. This was cited as an "industry best practice." Now, the same Administration is proposing to move IT security under the OCIO, again citing "best practices." How should the Legislature reconcile this seeming flip-flop?

- **Other Issues of Concern** – The Committee may wish for the Administration to respond to the following questions related to specific components of the GRP:

22. In the past, this Subcommittee has heard lengthy testimony as to the ongoing challenges of maintaining state-of-the-art, interoperable **telecommunications**, particularly for law enforcement and first-responders. Where does the OCIO see this issue in terms of the priorities of the GRP, and how will it be addressed? What roll does the OCIO plan to play in the selection and procurement of specific technologies?

23. One of the functions proposed for consolidation is “**human capital management**.” As noted above, state government suffers from a lack of highly-skilled IT professionals. Could the OCIO briefly describe the changes that would be implemented under the GRP with regard to IT human capital?
24. Both of the functions enumerated immediately above (telecommunications and human capital management) would be overseen, along with Geospatial Information Systems, Enterprise Architecture, and Enterprise Solutions & Services, by a single head of a new Enterprise Services Office (ESO)—see Appendix C. How does the OCIO anticipate the ESO would prioritize telecommunications (i.e., public safety and 9-1-1 communications) and human capital amid this multiplicity of responsibilities?
25. The GRP proposes shifting authority over broadband to the OCIO. How might shifting the lead broadband agency affect the state’s ability to successfully pull-down federal economic stimulus dollars in this area?

Appendix A – The Government Reorganization Process Set Forth in Code

CALIFORNIA CODES
GOVERNMENT CODE
SECTION **12080**-12081.2

12080. As used in this article:
(a) "Agency" means any statewide office, nonelective officer, department, division, bureau, board, commission or agency in the executive branch of the state **government**, except that it shall not apply to any agency whose primary function is service to the Legislature or judicial branches of state **government** or to any agency that is administered by an elective officer. "Agency that is administered by an elective officer" includes the State Board of Equalization but not a board or commission on which an elective officer serves in an ex officio capacity.
(b) "Reorganization" means:
(1) The transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or
(2) The abolition of all or any part of the functions of any agency; or
(3) The consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or
(4) The consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or
(5) The authorization of any nonelective officer to delegate any of his functions; or
(6) The abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of a reorganization plan will not have, any functions.
(7) The establishment of a new agency to perform the whole or any part of the functions of an existing agency or agencies.
(c) "Resolution" means a resolution of either house of the Legislature resolving as follows:

"That the ____________________________________ does not favor
(Assembly or Senate)
Reorganization Plan No. _________________________ transmitted to
(Insert number of plan)
the Legislature by the Governor on ______________________________
(Insert date of transmittal)
and recommends that the plan be assigned to the
____
(Insert appropriate committee)."

12080.1. The Governor, from time to time, shall examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

(a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state **government** and of its agencies and functions and the expeditious administration of the public business;

(b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state **government**;

(c) To increase the efficiency of the operation of the state **government** to the fullest extent practicable;

(d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;

(e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state **government**;

(f) To eliminate overlapping and duplication of effort.

The Legislature declares that the public interest requires the carrying out of the purposes set forth in this section, and that such purposes may be accomplished more speedily and effectively under this article than by the enactment of specific legislation.

12080.2. Whenever the Governor finds that reorganization is in the public interest, he shall prepare one or more reorganization plans in the form and language of a bill as nearly as practicable and transmit each, bearing an identifying number, to the Legislature, with a declaration that, with respect to each reorganization included in the plan, he has so found. The delivery to both houses may be at any time during a regular session of the Legislature. The Governor, in his message transmitting a reorganization plan, shall explain the advantages which it is probable will be brought about by the taking effect of the reorganization included in the plan, and he shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. Reorganization plans submitted to the Legislature pursuant to this section shall express clearly and specifically the nature and purposes of the plan or plans.

Upon receipt of a reorganization plan, the Rules Committee of the Senate and the Speaker of the Assembly shall refer the plan to a standing committee of their respective houses for study and a report. Such report shall be made at least 10 days prior to the end of the 60-day period described in Section **12080**.5 and may include the committee's recommendation with respect to a resolution.

A resolution, by floor motion, as defined in subdivision (c) of Section **12080**, may only be in order following a committee report or at any time during the last 10 days prior to the end of the 60-day period described in Section **12080.**5. Such resolution shall be voted upon without referral to committee.

12080.3. Each reorganization plan transmitted by the Governor under this article:

(a) May change the name of any agency affected by a reorganization and the title of its head, and shall designate the name of any

agency resulting from a reorganization and the title of its head.
(b) May include provisions, in accordance with Article VII of the California Constitution, for the appointment of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his or her message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are in the public interest. The head may be an individual or a commission or board with two or more members. In any case, the appointment of the agency head shall be subject to confirmation by the Senate. The term of office of any appointee, if any is provided, shall be fixed at not more than four years. The Legislature shall fix the compensation of all department heads and officers who are not subject to Article VII of the California Constitution.
(c) Shall provide for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to another agency or engaged in the administration of a law, the administration of which is transferred to the agency, by the reorganization plan. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.
(d) Shall provide for the transfer or other disposition of the personnel records and property affected by any reorganization.
(e) Shall provide for the transfer of unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization, as the Governor deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization or for the use of the agency that has these functions after the reorganization plan becomes effective. Transferred balances shall be used only for the purpose for which the appropriation was originally made.
(f) Shall provide for terminating the affairs of any agency abolished.
(g) Shall enumerate all acts of the Legislature that will be suspended if the reorganization plan becomes effective.

12080.4. No reorganization plan shall provide for, and no reorganization under this article shall have the effect of:
(a) Continuing any agency beyond the period authorized by law for its existence, or beyond the time when it would have terminated if the reorganization had not been made;
(b) Continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made;
(c) Authorizing any agency to exercise any function which is not expressly authorized by law to be exercised by an agency in the executive branch at the time the plan is transmitted to the Legislature;
(d) Increasing the term of any office beyond that provided by law for the office; or
(e) Abolishing any agency created by the California Constitution, or abolishing or transferring to the jurisdiction and control of any

other agency any function conferred by the California Constitution on an agency created by that Constitution.

12080.5. Except as otherwise provided in this section, a reorganization plan submitted pursuant to this article shall become effective the first day after 60 calendar days of continuous session of the Legislature after the date on which the plan is transmitted to each house or at a later date as may be provided by the plan, unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts by a majority vote of the duly elected and qualified members thereof a resolution, as defined in subdivision (c) of Section **12080**.

As used in this section "60 calendar days of continuous session" shall be deemed broken only by an adjournment sine die, but in computing the 60 calendar days for the purposes of this provision days on which either house is not in session because of a recess of more than 10 days to a day certain shall not be included.

12080.6. No reorganization plan shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any agency before the effective date of the reorganization plan except to the extent that the plan specifically so provides.

As used in this section "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

12080.7. No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this article.

12080.8. From the effective date of a reorganization plan, and as long as it is in effect, the operation of any prior act of the Legislature inconsistent therewith shall be suspended insofar as it is inconsistent with the reorganization plan.

12080.9. Each reorganization plan which takes effect shall be printed in the same volume as the acts of the session of the Legislature to which it was submitted.

12081. The Legislative Counsel shall prepare for introduction not later than the next regular session of the Legislature occurring more than 90 days after that in which a Governor's reorganization plan takes effect a bill effecting such changes in the statutes as may be necessary to reflect the changes made by the reorganization plan.

The purpose of this section is to insure that statutory law is amended to conform with the changes made by the reorganization plan, but failure to enact such a bill shall not affect the validity of the plan.

12081.1. It is the intention of the Legislature in delegating legislative power to the Governor by this article pursuant to the authorization contained in Section 6 of Article V of the California Constitution to retain the right of review of the Governor's action by means of action by either house of the Legislature recommending study of any proposal submitted to it.

12081.2. If any provision of this act or the application thereof, except Section **12080**.5, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act, except Section **12080**.5, are severable.

Appendix B – How We Got Here: A Summary of IT Governance from DOIT to Present

The following is a brief summary of recent IT governance structures intended to provide some context for the decision before the Legislature on GRP #1. For the sake of brevity, this background begins with the California Department of Information Technology (DOIT)—and sticks to the highlights of the IT governance conversation over the last decade.

DOIT was created in 1995 in an attempt to bridge the gap between the need to provide more effective state services through IT and a general lack of the leadership, guidance, and oversight necessary to carry out critical IT initiatives. Unfortunately, even before Oracle's 2001 no-bid software contract ended in scandal and effectively sealed DOIT's fate (the department was allowed to sunset the following year), DOIT struggled to meet its statutory mandates. In a review released in 2003 on behalf of the Bureau of State Audits (BSA), RAND summarized DOIT's demise as follows:

> *DOIT faced many challenges, including its composition and organizational placement, an all-encompassing charter to be both an advocate and a control organization, and the inability of state IT stakeholders to collaborate.*

Among the specific areas in which RAND found DOIT lacking were the following:

- ***Planning***—DOIT's inadequate inclusion of or responsiveness to department and agency CIOs in the formulation and revision of a statewide strategic plan resulted in a product that was neither well received nor complete.
- ***Approval***—DOIT's role and responsibilities relative to other control agencies was ill-defined. For example, overlap and ambiguity about the roles of DOIT and the Department of Finance (DOF) relative to project approval and funding eroded trust and confidence from the client departments who came to see the approval process as preferential, arbitrary, and unilateral. The lack of a clear and guiding strategic plan probably contributed to these problems.
- ***Procurement***—In addition to the Oracle debacle, DOIT struggled to set standards in the face of opposition from vendor lobbyists. This reflected the political clout of the vendor community as well as the natural and unavoidable tension between statewide efforts for cost efficiency and effectiveness versus the need for competitive procurement for the sake of equity and public trust.
- ***Implementation & Evaluation***—DOIT was created with the intent of providing project leadership and guidance as well as oversight, but it did not possess the resources (and may not have possessed adequate authority) to undertake such an enormous task. The alternative strategies DOIT employed, for example, using outside contractors (Independent Project Oversight—IPOC; and Independent Verification and Validation—IV&V) were frequently viewed as excessive, redundant, and/or trivial by departments/agencies, not least because they bore the additional costs. Finally, DOIT may never have adequately defined "failure" insofar as no one in state government at the time could remember an instance in which DOIT terminated a project once in progress. That said, even a "failed" project frequently results in a useful system, suggesting that "failed" may be primarily a matter of public (or political) perception.

RAND additionally identified the following "problem areas" related to the environment in which DOIT operated:

- ***Organization & Support***—California interviewees generally agreed that DOIT lacked buy-in and collaboration from other stakeholders, consistent support from the governor's office, and adequate staffing to address all of its statutory responsibilities.
- ***Roles & Functions***—Given limited resources, DOIT may have attempted to tackle too many challenges at once, rather than establish a set of priorities and tackle only the most important issues and challenges, as time and resources permitted. For example, DOIT attempted to set security policy and standards, provide a community forum to address common issues, and advance initiatives from an enterprise-wide perspective, but, in the eyes of constituents/clients, failed to succeed at any of them.

As RAND further noted in the aftermath of DOIT, "there still exists an unsatisfied need for IT governance in California."

With this in mind, and the mantra of "we don't want to create another DOIT," the state moved on. Primary responsibility for IT activities devolved to agencies and departments, while the Department of Finance (DOF) retained budgetary approval and took full control over technical (project) approval. Additionally, DOF worked to produce general IT policies and standards (including security), while Department of General Services did the same with regard to IT procurement. Although California hired a new state Chief Information Officer (CIO), for several years the position was given no staff and lacked any specific authority to govern California IT until Chapter 533, Statutes of 2006 (SB 834, Figueroa) changed some of that by formally establishing the Office of the Chief Information Officer (OCIO) and prescribing the state CIO duties, including: (1) advising the Governor on IT issues, (2) minimizing overlap and redundancy of state IT operations, (3) coordinating the activities of agency information officers, (4) advancing organizational maturity and capacity in IT management, and (5) establishing performance measures for IT systems and services.

Subsequent budget trailer bill language, Chapter 184, Statutes of 2007 (SB 90, Committee on Budget and Fiscal Review) raised the CIO to a cabinet-level position and expanded the powers of the OCIO to include the authority to (1) approve, suspend, and terminate IT projects; (2) establish and enforce state IT plans and policies; and (3) consult with agencies on programmatic needs and IT projects. SB 90 additionally transferred the IT policy-setting and review functions and resources from the DOF to the OCIO, and the information security policy-setting function from the DOF to the State and Consumer Affairs Agency (SCSA). While the LAO supported the fundamental shift of IT governance to the OCIO, it raised the following issues, some of which were not addressed or reflected in the final decision:

> ***Overly Ambitious Plans for CIO.*** *In organizing the CIO, the* [2007-08] *budget proposal lists 15 major goals that will come from its formation—including improving IT procurements, enhancing training of state staff, and reorienting the state's Web pages. There is no prioritization reflected in the proposal. Particularly in CIO's early years, we are concerned that such an aggressive agenda will result in reduced effectiveness. In fact, the same problem plagued DOIT during its existence.*

__Separating Approval From Funding Creates Risks.__ The CIO would have no project funding authority, which would remain with DOF's budget staff. In theory, CIO would turn over an approved project to DOF to be fully funded. In practice, however, this could be a challenging process to manage and would require a high level of coordination and information sharing between DOF and CIO. The proposal provides no plan for coordinating project approval and funding.

__Departments could end up with a project approved by CIO's office and still be denied funding by DOF.__ This is another problem that contributed to DOIT's failure. At the time, DOIT's responsibility was to approve project plans based on sound management practices and DOF's responsibility was to approve project budgets. Yet, DOF often approved projects at funding below the level recommended by DOIT. Eventually, DOIT's role became diminished because it did not have the financial clout to support its decisions.

__Oversight Must Be Independent.__ As a control agency, DOF performs the role of dispassionate review of state programs and projects. This makes its IT oversight more effective by adding objectivity to the process. We are concerned, however, that CIO's advocacy for projects will limit its ability to provide an independent perspective on oversight.

__Security Proposal Would Add Unnecessary Layer__. Information security has not received priority within DOF. Security policies can increase costs, which runs counter to DOF's core mission of controlling costs. Moving the security program out of DOF, therefore, is a positive step. The administration's choice in moving IT security to SCSA appears to be an effort to follow industry practices to separate the CIO from security. To the extent that projects will receive security reviews by SCSA under the new structure, however, it would add another cumbersome layer of review in addition to CIO and DOF. It is also unclear how policies issued by CIO would be integrated with security policies issued by SCSA.

Based on the concerns raised above, the LAO recommended the following alternatives which emphasized the OCIO's role as a strategic office, while maintaining specific project review and approval at the DOF:

__Strategic Planning, Policies, and Standards.__ The administration's proposal to place these responsibilities with CIO makes sense. The CIO would be the state's IT program expert and should be responsible for its planning and policy development.

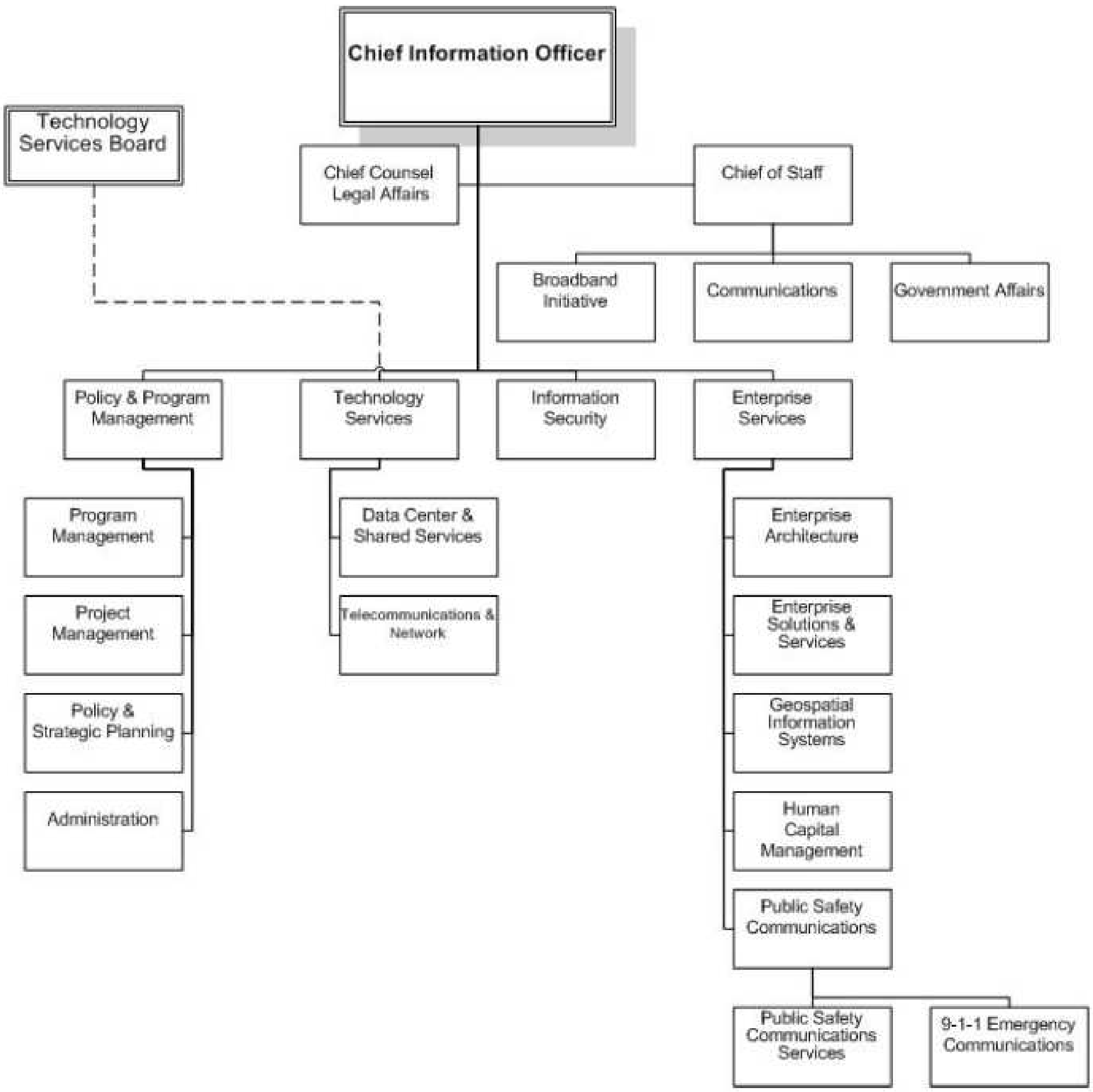
__Project Review, Approval, and Oversight.__ The current IT project funding and oversight structure has produced a reasonable approach to identifying and managing project risks and has provided balance between risk management and funding constraints. One key component is that DOF has the authority to approve, fund, and oversee a project. In addition, particularly in the short term, CIO will have other priorities upon which to focus. Adding the management of every state IT project to CIO's workload will stretch its capabilities, even with [Office of Technology Review and Oversight] *OTROS staff relocated. We therefore recommend that OTROS's project review and oversight roles remain at*

DOF. The CIO would still be involved in the development of key IT projects. The CIO's involvement, however, would be from a strategic perspective rather than the "nuts and bolts" of detailed reviews.

Information Security. *Information security should receive more focus than it has received under the current structure. Creating a third IT review office (in addition to CIO and DOF), however, could unnecessarily hinder project reviews. We instead recommend that the security function be included within CIO's policies and standards role. As CIO issues statewide policies, it should include the perspective of how security is affected and data could be better protected. The three security positions currently at DOF should be transferred to CIO.*

Following enactment of SB 90, and the expansion of the OCIO, Governor Schwarzenegger appointed Teresa (Teri) M. Takai as California's CIO. As Michigan's state CIO and director of the Michigan Department of Information Technology, Ms. Takai oversaw an IT restructuring and consolidation of that state's IT apparatus into one centralized department servicing 19 agencies and over 1,700 employees. Among the initial challenges facing Ms. Takai in modernizing California's approach to IT, was to determine what exactly the state was currently doing. To this end, the OCIO conducted a statewide survey in May 2008 in order to establish a preliminary baseline. Additionally, the OCIO began releasing an annually update the strategic plan. For 2009, the OCIO issued a multi-part IT strategic plan in early 2009, including a broad strategic overview and a five-year IT capital plan, with a "tactical" plan to follow in May 2009.

Appendix C – Organization Chart: The Proposed Office of the State Chief Information Officer



Appendix D – Guideposts for the Way Forward: A Cliff's Notes to the 2003 RAND Report on IT Governance in California

Prior to the sunset of DOIT, RAND was asked to conduct a study of California's IT governance structures and strategies for the Bureau of State Audits. RAND's cross-case analyses and research literature review identified a number of common factors likely to account for successful IT programs under different governance models. Although the RAND report is now over five years old, the factors identified are sufficiently general that they are still useful guideposts in determining whether the Governor's proposal represents the best way to improve California's IT governance (see Figure 1 below).

Figure 1

Common Factors Associated with Successful IT Programs*

1. **Executive leaders who are champions of IT** and emphasize its value for achieving state missions.
2. **A management style** that is participative and collaborative, **that emphasizes "carrots" over "sticks,"** and that evidences a commitment to employees during periods of change.
3. **A modular and incremental approach** to development and implementation of IT initiatives.

[emphasis added]

*From *Effective Use of Information Technology: Lessons about State Governance Structures and Processes*—prepared by RAND for the California Bureau of State Audits (2003).

In addition to the common factors listed above, RAND also highlighted a number of key decision points that must be addressed by any IT governance structure. These bear keeping in mind and include the following:

- *Determine the appropriate degree of centralization and consolidation of IT services.*
- *Determine the appropriate degree of standardization that should take place in statewide IT applications.*
- *Establish the proper level of outsourcing for IT activities.*
- *Develop a strategy to mitigate the interruptions and distractions from statewide IT initiatives caused by the periodic turnover of state administrations.*
- *Develop a strategy to mitigate the delays and negative effects caused by the length of the budget cycle on the approval and implementation of IT projects.*
- *Determine the proper balance between the creation of IT specific plans with agencies' desires for integrated business plans.*
- *Develop a strategy to minimize the disruption that will be caused by the large number of IT employees with expertise concerning older IT systems and applications that are scheduled to retire in the near future.*

Finally, RAND found that "there are several models of IT governance exhibited by various states; no one is the 'right' one, but some are more relevant to California's current context than others." Between the three models of IT governance encountered in the other states surveyed ("consolidated control," "collaborative leadership," and "advocacy"), RAND observed that all three "appear to be operating with considerable effectiveness [in other states]," even though they differed "in the degree of authority they gave to a state-level IT office in technical, financial, operational, and procurement areas." "It is possible," RAND noted, "to evolve from lesser to greater authority as a state-level IT office demonstrates competency and earns trust over time."

With specific respect to California, RAND recommended the following:

> *Regardless of governance model, the states we studied have an organizational statewide focus for IT developments. We conclude that **California would be best served by reestablishing a state IT agency** to act as that focal point. Because of the size and scope of California's IT developments and procurements, and a poor track record to date for "collaborative" effectiveness in a California IT agency, we believe the **"consolidated control" model** may be appropriate for a new attempt at an effective California IT governance agency—while providing substantial in-house technical expertise in that agency to guide statewide development and procurement initiatives* [emphasis added, in both cases].

Appendix E – Estimated Savings from GRP #1 (page 1 of 2)

General Fund Savings/Cost Avoidance
by Fiscal Year

(assumes General Fund expenditure account for 55% of IT expenditures)

Line Item	2009-10	2010-11	2011-12	2012-13	2013-14	Five-Year Total	Assumptions
Reduce spending on office automation tools (development, maintenance and support) by 50%.	$1.00	$8.94	$17.87	$17.87	$17.87	$63.55	1. All expenditures on office automation tools must be approved by OCIO.
Reduce data center/computer room sq. footage.	$0.00	$0.00	$9.00	$18.00	$27.00	$54.00	1. Agencies consolidate data centers by 25% per year. Expenditures above $250,000 require OCIO approval.
Reduce server spending through virtualization, reduce # of servers by 50%	$6.40	$17.16	$51.48	$51.48	$51.48	$178.00	1. All server expenditures must be approved by OCIO or AIOs for Agencies with consolidation plans approved by OCIO.
Reduce spending on storage by 50% through best practices.	8.25	16.5	33	49.5	49.5	156.75	1. All storage expenditures must be approved by OCIO or AIOs for Agencies with consolidation plans approved by OCIO.
General Fund Cost Avoidance	**$15.65**	**$42.60**	**$111.35**	**$136.85**	**$145.85**	**$452.30**	

Appendix E – Estimated Savings from GRP #1 (page 2 of 2)

Line Item	2009-10	2010-11	2011-12	2012-13	2013-14	Five-Year Total	Assumptions
Reduce outsourcing of IT Project Oversight by (50%).	$7.70	$7.70	$7.70	$7.70	$7.70	$38.50	1. Insource all IPOC work, absorb workloard w/ 20 new PY ($1M GF/OF). 2. Insource 40% of IV&V workload.
Reduce network costs for 2,500 circuits by $400 each.	0	3.3	4.95	6.6	6.6	21.45	1. Move to managed services, standard without exemption from OCIO.
Reduce non-project IT spending ($800 million) by 10 percent	$22	$44	$44	$44	$44	$198	1. All IT expenditures must be approved by Department CIOs. 2. Agency CIOs must approve all IT purchases in excess of $250,000. 3. OCIO must approve all IT purchases in excess of $500,000.
Strategic Sourcing/Contract Consolidation (10% savings on $225 million in spend)	0	12.375	12.375	12.375	12.375	49.5	1. Limit non-Project services spending to sourced contracts.
Reduce contingency set aside for IT projects (5%) - ~$1B AF	0	27.5	27.5	27.5	27.5	110	1. Reduce unanticipated tasks budgets by 50%.
General Fund Savings	**$29.70**	**$94.88**	**$96.53**	**$98.18**	**$98.18**	**$417.45**	
General Fund Savings/Avoidance ($ Millions)	**$45**	**$137**	**$208**	**$235**	**$244**	**$870**	
Other Fund Savings/Avoidance ($ Millions)	**$36.81**	**$112.09**	**$170.18**	**$192.27**	**$199.63**	**$710.98**	
Savings - All Funds/Avoidance ($ Millions)	**$82**	**$250**	**$378**	**$427**	**$444**	**$1,581**	

Appendix F – LAO Letter in Response to the Little Hoover Commission Request for Comments on GRP #1 (page 1 of 6)

March 9, 2009

Mr. Stuart Drown
Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, California 95814

Dear Mr. Drown:

This letter is in response to your request for comments on the Governor's Reorganization Plan (GRP) to consolidate state information technology (IT) functions under an expanded Office of the State Chief Information Officer (OCIO).

Current IT Governance Structure

The GRP proposes consolidating multiple state IT functions under an expanded OCIO. Currently, IT governance responsibility is distributed across various entities and departments:

- The OCIO is responsible for many activities, including developing and enforcing the state's IT plans, policies, and standards; conducting IT project review, approval, and oversight; and promoting the efficient and effective use of IT in state operations. The Chief Information Officer (CIO) is a member of the Governor's Cabinet and advises the Governor on the strategic management of the state's IT resources.
- The Office of Information Security and Privacy Protection (OISPP), part of the State and Consumer Services Agency (SCSA), is made up of two offices. The Office of Information Security is responsible for ensuring the confidentiality, integrity, and availability of state systems and computer applications and for protecting state information. The Office of Privacy Protection promotes and protects privacy rights of consumers.
- The Department of Technology Services (DTS), also within SCSA, provides IT services to state, county, federal, and local entities throughout California on a fee-for-service basis. Technology services include application and equipment hosting, storage, computing, networking, and training.

- The Technology Services Board (TSB) governs DTS, setting policy on services provided by the department and reviewing and approving DTS' annual budget and rates. The state CIO chairs the TSB.
- The Department of Finance (DOF) has responsibility to maintain all statewide IT procurement policy in the State Administrative Manual and Statewide Information Management Manual. The Department of General Services (DGS) has responsibility for the actual procurement of IT goods and services.
- The DGS also houses the Telecommunications Division, which provides engineering and technical support services for public safety-related communication systems.

Proposed IT Governance Structure

The GRP proposes consolidating the above state IT functions. The new organizational structure would transfer DOF's authority over procurement policy for IT goods and services to the OCIO. It would also transfer all the functions from DTS, the Telecommunications Division of DGS, and the information security functions of OISPP. The CIO would keep her current responsibilities. All transferred employees affected by this reorganization would report to the OCIO, though physically they would remain at their current locations. The total number of positions transferred would be about 1,180, with 800 from DTS, 368 from DGS's Telecommunications Division, and 6 from OISPP. All unexpended balances of appropriations and other funds available for functions affected by this reorganization would be transferred to the OCIO and would have to be used for their original purposes.

The administration indicates this GRP is a first step toward greater centralization of state IT functions. The administration believes this first phase of reorganization would permit the state to avoid $185 million in costs (all funds) in 2009-10 and $1.5 billion in costs (all funds) over five years. This would be achieved through such means as consolidating software contracts, data centers, computer rooms, servers, storage, and networks. However, we note that the administration has not yet made public the details regarding how such costs would be avoided.

The Benefits of Consolidating

In general, consolidating entities with similar functions under a centralized governance structure can lead to increased efficiencies and improved services as redundant staff activities are eliminated and the delivery of services is streamlined. We concur that there are potential benefits, in particular, from consolidating the state's IT functions. The state CIO possesses a broad perspective of the state's overall business and IT needs and could better assist state entities in the best use of technology to maximize the state's business processes and goals. This is referred to as an "enterprise" perspective. The CIO is responsible for considering IT and business needs across agencies, departments, and projects (rather than focusing narrowly on the needs of one or two entities) and establishing a statewide strategic plan for the effective use of IT across state government. Consolidating IT functions under the OCIO could result in greater alignment of IT services and resources and produce some IT-related efficiencies and improvements on a statewide level. Below, we discuss key features of the plan and the associated benefits.

Procurement Policies. Transferring the authority to create and enforce IT procurement policy to the OCIO could lead to more standardized procurement policies for all IT goods and services. Currently, procurements are conducted on a case-by-case basis according to the technology and business needs of the requesting agency, department, or project staff. This approach does not always allow the state to optimize service contracts, to buy in bulk, or to buy strategically. A CIO responsible for procurement policy would have the ability to establish standards for the types of technologies and IT infrastructure procured for the entire state. Standardization could result in savings as the state would be able to take advantage of economies of scale in purchasing IT goods and services.

Additionally, under the proposed consolidation, the OCIO could be in a stronger position to establish procurement policies that facilitate more efficient and coordinated IT-related procurements. For example, current state procurement policies do not systematically require the early or active involvement of state IT experts, such as DTS and IT security staff, DGS IT procurement staff, or outside IT consultants during the procurement process. (Some staff for particular departments and projects do take advantage of such resources, but not all do so now.) The OCIO could help to standardize expert involvement and other "best practices" in procurement that could mitigate future risks and reduce the cost to the state of such projects.

Security Functions. The departments that report to the SCSA are engaged in a wide array of activities such as civil rights enforcement, consumer protection, professional licensing, and procurement. With such a wide range of responsibilities, one of the SCSA's responsibilities—information security—is not necessarily the agency's highest priority. The administration's proposal would move the security functions that currently reside in SCSA to the OCIO, where they would likely receive greater attention. Under OCIO, security issues could gain greater visibility and more awareness as the CIO established statewide IT goals and policies, including standards for information security.

Data Center Shift. Moving DTS under OCIO makes practical sense. This move would allow the OCIO to create and enforce more standardized processes and technologies for all clients who utilized DTS services. Currently, as is the case with IT procurements, DTS provides services to its clients based upon their individual needs. While this allows DTS to address and satisfy individual clients, DTS admits there is a lack of standardization in the use of hardware and other technologies. If DTS were a part of OCIO, more strategic and standardized approaches to providing data center services could be developed that take into consideration what is most appropriate for overall state IT needs rather than a single client's IT needs. The OCIO could give DTS the leverage it needs to only offer data services that are aligned with the state's strategic plan for IT. Greater alignment of data services could increase efficiencies and lead to reduced pricing for DTS services.

Possible Concerns With Consolidating

While standardization of IT policies and processes could result in some cost efficiencies, this is not without potential tradeoffs. These include limiting state entities' choice in purchasing IT goods and data services, potentially reducing the number of IT vendors who may sell to the state, and creating a large bureaucracy that may impede rather than encourage government efficiency.

Limiting Choice. Currently, state agencies and departments can purchase IT goods and services through DGS or through outside vendors. Similarly, they may use DTS for data services or find a vendor to provide these services. Under the new reorganization, the CIO would standardize the types and kinds of software, hardware, and technologies the state is able to obtain as well as the data services the state provides. Though exceptions may be granted, in general, all state entities would have to adhere to these new policies and standards in purchasing IT goods and services, thus limiting their choices.

Reduction in Vendors. The OCIO's choice of certain systems and technologies over others could limit the pool of contractors that are able to do business with the state. Reducing the number of vendors could decrease competition for certain contracts, potentially driving up costs for IT goods and services.

Building a Bureaucracy. Should the GRP be implemented, the OCIO would grow to an office of over 1,200 staff. A large office has the potential to become significantly more bureaucratic, creating policies and procedures with unintended adverse consequences. Moreover, a larger bureaucracy may not be as flexible in addressing changing situations.

Despite these potential drawbacks, we believe ensuring more standardized IT policies and procurements outweighs these concerns. However, there are some implementation issues associated with this GRP that should be considered.

Issues for Consideration

This GRP lacks key details regarding its implementation as well as how it would achieve the stated level of cost avoidance. Additionally, the GRP proposes to increase OCIO's workload without prioritizing its new and existing functions. We discuss these concerns below.

Details Lacking and No Sense of Prioritization. The GRP lacks key details regarding how this reorganization would actually be implemented. For example, the GRP does not address how the OCIO would maintain effective oversight over multiple new functions and staff. Additionally, there is no indication how the new responsibilities and roles for the OCIO proposed in the GRP would be prioritized along with its existing ones. The OCIO would be responsible for, among many things, strategic planning, project review and oversight, managing a large data center, and creating statewide IT-related policies and standards. We are concerned that the office may be taking on too many duties at one time.

One approach the administration could take to mitigate these potential risks would be to reduce the number of functions transferred to the OCIO at one time. A more phased approach could reduce the total workload for OCIO's current managers, allowing them to better handle problems as they arise. For example, the reorganization could begin with the transfer of procurement and information security policy to the OCIO. Another example would be giving the OCIO the authority to begin building state expertise in project management, an IT function not included in the GRP but one we discuss at length below. Also, a more phased approach could be less disruptive to department staff, allowing them to be more systematically and slowly consolidated into OCIO.

Project Management Goals Absent. We note that an important IT-related function has been omitted from the reorganization plan. The OCIO has highlighted the need for the state to develop a workforce of state workers with IT project management expertise who could better guide the implementation of IT projects. Toward that end, the OCIO has developed a project management academy and plans to establish a Project Management Office within OCIO. The GRP does not advance this important goal.

Our analysis indicates that there is an opportunity to do so. The Office of Systems Integration (OSI) within the Health and Human Services Agency (HHSA) has successfully managed that agency's IT projects. The OCIO could leverage the experience and expertise of OSI's project management staff by absorbing them, as they rotate off completed projects, into the newly established Project Management Office. This would give OCIO a small cadre of professional state staff that could be "loaned" to different state IT projects. Presumably, many former OSI staff would end up working on OSI-led projects, as they comprise a large proportion of the state's overall IT project portfolio. Creating a cadre of state workers to conduct project management would have statewide benefits by addressing the state's lack of this particular expertise.

Cost Avoidance Unknown. As noted earlier, the administration estimates cost avoidance of approximately $185 million for 2009-10 and $1.5 billion for the first five years if this GRP is implemented. We agree there will be some cost avoidance, in the short term, once IT functions and resources are streamlined and statewide IT policies are standardized. Without further details on the administration's estimates of cost avoidance, however, we cannot comment on their accuracy. In general, we are skeptical about the administration's claim of $1.5 billion in cost avoidance associated with implementing this GRP alone.

Appendix F – LAO Letter in Response to the Little Hoover Commission Request for Comments on GRP #1 (page 6 of 6)

The Bottom Line

In conclusion, the administration's plan to consolidate more IT functions under the OCIO has merit and offers potential statewide cost avoidance—more so in the long term, when IT policies have been firmly established and state entities are working from a more standardized IT framework. However, we are concerned that this GRP lacks detail regarding implementation and has not completely addressed potential challenges to the existing OCIO staff and newly transferred offices. The Legislature may want to consider other means of achieving some of the same goals stated in this GRP.

Please contact Erika Li at (916) 319-8306 if you have any questions about our comments.

Sincerely,

Mac Taylor
Legislative Analyst

Appendix G – Example of IT Performance Metrics (page 1 of 2)

Office of the State Chief Information Officer
Balanced Scorecard

Strategic Metrics

Objectives	Measures
Enterprise Mission Goals	Percent mission improvements (cost, time, quality) attributable to IT solutions and services. Percent planned IT benefits projected v. realized.
Portfolio analysis & management	Percent IT portfolio reviewed and disposed. Percent old applications retired. Percent applications retirement plan achieved. Percent reusable of core application modules. Percent new IT investment v. total spending.
Financial & investment performance	Percent and cost of services provided in-house v. industry standard. IT budget as a percent of operational budget and compared to industry average. Net present value, internal rate of return, return on investment, return on net assets.
IT resource usage	Percent consolidated/shared resources across enterprise. Percent cross-unit shared databases and applications. Percent hardware/software interoperability.

Service Measures

Objectives	Measures
Customer partnership & involvement	Percent projects using integrated project teams. Percent joint IT customer/supplier service-level agreements.
Customer satisfaction	Percent customers satisfied with IT product delivery. Percent customers satisfied with IT problem resolution. Percent customers satisfied with IT maintenance and support. Percent customers satisfied with IT training. Percent products launched on time. Percent service-level agreements met.
Business process support	Percent IT solutions supporting process improvement projects. Percent users covered by training to use new IT solutions. Percent new users able to use applications unaided after initial training.

Appendix G – Example of IT Performance Metrics (page 2 of 2)

Office of the State Chief Information Officer
Balanced Scorecard

Internal Business Measures

Objectives	Measures
App development & maintenance	Percent decrease in application software failures, problems. Mean time to resolve critical defects. Cycle time for development.
Project performance	Percent projects on time, on budget. Percent projects meeting functionality requirements. Percent projects using standard methodology for systems analysis and design.
Infrastructure availability	Percent system availability. Percent communications availability. Percent applications availability. On-line system availability.
Enterprise architecture compliance	Number of variations from standards detected by review and audit. Number of exceptions from standards granted. Number of exceptions from standards requested. Percent increase in systems using architecture. Percent staff trained in relevant standards

Innovation and Learning Measures

Objectives	Measures
Workforce competency/development	Percent staff trained in use of new technologies and techniques. Percent staff professionally certified. Percent IT management staff trained in management skills. Percent IT budget devoted to training and staff development.
Advanced technology use	Percent employees skilled in advanced technology applications. Number of dollars available to support advanced technology skill development.
Methodology currency	Currency of application development methods used. Percent employees skilled in advanced application development methods. Percent projects developed using recognized methods and tools.
Employee satisfaction/retention	Percent employee satisfaction with the capability of the existing technical and operating environment to support mission. Percent employee turnover by function.

Appendix H – Full Text of Governor's Reorganization Plan #1 (2009)

Organizing for Success

IT Governance for California State Government

GOVERNOR'S REORGANIZATION PLAN #1
FEBRUARY 2009

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I. Introduction

The application of information technology permeates all aspects of California state government. From the collection of income and sales taxes, to providing health and social service benefits, to licensing vehicles and professionals, the use of technology within state government is multifaceted, supporting a multitude of programmatic missions, and evolving in response to changing policy and programmatic goals. Technology is no longer bolted onto the side of government programs; now, it is an integrated part of program design. The very ability of state agencies to manage their resources and efficiently deliver services to Californians is inextricably linked to their ability to effectively use technology. On the strategic level, as policy and programmatic initiatives move to "cross-boundary" models – cutting across traditional agency, organizational and jurisdictional boundaries – state executives will need to leverage technology to partner more closely with individuals and groups within and outside of government and must be able to seamlessly collaborate across the enterprise.

Impeding this growing dependency is the fact that the state's technology programs are distributed across dozens of agencies, without a broad and cohesive organizing logic that informs the activities of information technology leaders as they build or acquire new systems or infrastructure. As a result, even the many positive advances in the state's use of technology over the last decade, has failed to take advantage of these advances on an enterprise-wide basis. Further, the skillful use of information technology is particularly important now that residents and businesses expect to conduct their business with state government on the Internet, and also expect transparency and accountability from their government.

Information Technology Governance

Trends in the public sector, especially in those states that have been recognized by the Pew Center on the States for information performance, provide context as to the form, organization and benefits of effective information technology governance. In terms of information performance, among the states (Michigan, Missouri, Utah, Virginia and Washington)[i] earning the Pew's Government Performance Project grade of "A" all have integrated policy and operational functions within information technology organizations that have an enterprise, or statewide, perspective. Beyond Pew's assessment, the Little Hoover Commission, the Center for Digital Government, Deloitte Consulting, Gartner, the Legislative Analyst's Office, and the RAND Corporation have observed that the state must transform the underlying way technology is governed and managed within state government if it is to be effectively leveraged as a strategic asset to improve public outcomes and maximize efficiency.

Californians rightly expect affordable, accessible and responsive services from their state government and only the strategic use of information technology can enable California state government to meet these expectations. Doing so requires a framework to leverage existing technology assets and a statewide approach to the planning, design and implementation of future information technology systems and infrastructure. In the context of the state's fiscal challenges, information technology also provides policymakers with a way to continue to provide needed services to the public by enhancing the performance and productivity of state government.

Establishment of the Office of the State Chief Information Officer

Since the early 1980s, the state tried several models for governing the way it manages information technology investments and operations. Nearly all of these models were shown to be insufficient for the management and oversight of complex technology infrastructures and large IT projects. Accordingly, in 2006, the Legislature enacted and Governor Arnold Schwarzenegger signed SB 834 (Chapter 533, Statutes of 2006) to establish the Office of the State Chief Information Officer (OCIO).

SB 834 made the State CIO a member of the Governor's cabinet, with the position appointed by the Governor and subject to Senate confirmation. The bill also codified the responsibilities of the State CIO, making the State CIO the nominal leader for the Executive Branch's IT program. The Budget Act of 2007 and related legislation (SB 90, Chapter 183, Statutes of 2007) substantially expanded on SB 834 and provided positions and an appropriation to establish the OCIO. Government Code § 11545 et seq. provide the State CIO and the OCIO with responsibility and authority for statewide technology vision, strategic planning and coordination, technology policy and standards (enterprise architecture), data management policy and standards, and the review and approval of technology projects.

Defining Federated IT Governance

Federated IT governance establishes the relationship among the Agencies, departments and the state CIO. The federated governance model maintains the authority of agencies to manage program-specific IT processes and systems. IT functions that are common across the entire state are managed at the enterprise level for all agencies by the central IT organization. The federated governance model confirms that programmatic needs are the primary drivers for IT decisions and acknowledges the importance of IT as an enabler of agency success.

With the creation of the OCIO, the Governor and the Legislature have established the structure on which a strong information technology program can be built. Greater expectations and new challenges require a new, more coordinated approach to the governance and management of information technology. This Reorganization Plan provides that approach - a federated governance model for information technology in California.

II. The Current State of IT Governance in California

In its current state, IT governance responsibilities are dispersed across multiple entities and organizations.

Existing Organizations

Office of the State Chief Information Officer (OCIO) – The OCIO was formally established by Senate Bill 90 and began formal operation in January 2008. The State CIO's specific responsibilities include the following:

- Advising the Governor on the strategic management and direction of the state's information technology resources.
- Establishing and enforcing state information technology strategic plans, policies, standards and enterprise architecture.
- Minimizing overlap, redundancy and cost in state operations.
- Coordinating activities of agency information officers and the Director of Technology Services.
- Improving organizational maturity and capacity in the effective management of information technology.
- Establishing performance management practices and ensuring state information technology services are efficient and effective.
- Approving, suspending, terminating and reinstating information technology projects.

In the Budget Act of 2008, the Legislature provided the OCIO with 32 positions and a budget of approximately $6.7 million. The Governor's 2009-10 January Budget proposal includes 29 new positions and an increase of $8.4 million ($5.7 million General Fund) to develop a strategic plan and overall structural design for education data systems and to provide sufficient resources to carry out the existing duties of the Chief Information Officer related to Enterprise Architecture, Geospatial Information Systems (GIS), human capital management, program and project management and information technology policy.

Table 1, see below, describes key actions the OCIO has taken to date consistent with SB 90.

Table 1: Key Actions by the Office of the State Chief Information Officer

Statutory Role of the CIO	Key Actions to Date
Advise the Governor on the strategic management and direction of the state's IT resources.	✓School Finder/Education Data Project ✓Broadband and digital literacy ✓GIS Task Force
Establish and enforce state IT strategic plans, policies, standards, and enterprise architecture.	✓The IT Capital Planning process implemented by OCIO ensures all IT investments are consistent with state policy priorities, IT policy and standards, while reducing duplication and overlap.
Minimize overlap, redundancy and cost in state operations.	✓ Moving forward with server consolidation plan that will significantly reduce costs when fully implemented. ✓ Leading effort to consolidate state e-mail systems to enhance security, reduce costs, and improve reliability.
Coordinate activities of AIO's and the Director of DTS.	✓ With DTS Director, implemented spend control program at DTS achieving savings on new hardware and significant cost avoidance related to capital expenditures. ✓ Significantly enhanced the state's web presence through coordination with AIOs, recognized by Brookings institute and the Center for Digital Government.
Improve organizational maturity and capacity in the effective management of IT.	✓ Establishing a Project/Risk management methodology including a new training program as a requirement for state IT Project Managers. ✓ Developing statewide workforce development and planning strategy focused on training, recruiting, and retaining IT staff
Establishing performance management and ensuring IT services are efficient and effective.	✓ In establishing the Project Management Methodology, developed key metrics to assess performance of IT projects.

Other information technology organizations/functions with a statewide operations or policy function include:

The Department of Technology Services (DTS) – The DTS was established on July 9, 2005, via a Governor's Reorganization Plan, and exists under the jurisdiction of the State and Consumer Services Agency. The DTS provides information technology (IT) services, on a "fee for service" basis, to state, county, federal and local government entities throughout California. Through the use of a scalable, reliable and secure statewide network, combined with expertise in voice and data technologies, DTS delivers comprehensive computing, networking, electronic messaging and training. The DTS is made up of seven divisions, including: Data Center Operations, Security Management, Engineering, Customer Delivery, Policy and Planning, Statewide Telecommunications and Network, and Administration. [Describe Technology Services Board] In the Budget Act of 2008, the Legislature provided DTS with authority for 801.8 positions and $278 million in expenditure authority from the Technology Services Revolving Fund.

The Technology Services Board (TSB) – The TSB, which was established on July 9, 2005, via a Governor's Reorganization Plan, provides governance and guidance to the DTS, and ensures appropriate oversight and customer orientation. The TSB was designed to ensure that the DTS is governed by its major customers from a business perspective. Chaired by the State CIO, the TSB membership consists of top executives from all Cabinet agencies and the State Controller's Office.

Office of Information Security and Privacy Protection (OISPP) – The OISPP was established effective January 1, 2008, and is part of the State and Consumer Services Agency. The OISPP is responsible for leading state agencies in securing and protecting the State's information assets by identifying critical technology assets and addressing vulnerabilities; deterring identify theft and security incidents; sharing information and technology lessons promptly; enhancing government response and recovery; and developing consumer education programs. In the Budget Act of 2008, the Legislature provided OISPP with authority for 14 positions and a budget of $1.9 million.

Department of General Services, Telecommunications Division (DGS-TD) – The DGS-TD was first established in 1947 and has existed in its current incarnation since the business telecommunications functions were transferred to the Department of Technology Services on July 9, 2005. The DGS-TD, as part of the DGS, exists under the jurisdiction of the State and Consumer Services Agency. The DGS-TD is made up of two distinct offices, the Office of Public Safety Communications Services (OPSCS) and the State of California 9-1-1 Emergency Communications Office. The OPSCS provides engineering and technical support services for public safety related communications systems, including: design, installation, and maintenance services. The 9-1-1 Emergency Communications Office provides oversight of the 9-1-1 network and approximately 500 police, fire, and paramedic dispatch centers, also known as Public Safety Answering Points (PSAPs) and assists PSAPs in the administration and funding of 9-1-1 services. In the Budget Act of 2008, the Legislature provided DGS-TD with authority for 368 positions and $223 million ($152 million for local assistance, $71 million for state operations) in expenditure authority.

IT Procurement Policy – In enacting Public Contract Code Sections (PCC) §12100-12113, the Legislature drew a distinction between the role of IT procurement policy and IT procurement procedure by granting the Department of Information Technology (DOIT) authority for IT procurement policy and the

Department of General Services with authority over IT procurement procedure. When the Department sunset on July 1, 2002, this authority was transferred to the Department of Finance (DOF) and Management Memo 02-20 clarified the delineation of responsibilities in the area of IT procurement. Several references in PCC §12100-12113 still reference that the DOIT and the DGS are jointly responsible to create and coordinate policies and procedures for the acquisition of information technology goods and services. Clearly defining the roles and responsibilities for IT procurement policy and procedure is necessary to implement common technology standards statewide.

Information Technology in California State Government

In May 2008, the OCIO conducted a statewide survey in an effort to understand and baseline key data to gain a clearer picture about the state of information technology in California state government.[ii] The survey requested information about several areas, including: general information about agencies IT organizations and how services are delivered; infrastructure (including mainframe, servers, and storage); e-mail services; and technical environment. The OCIO aggregated the data from the survey and validated it against other reliable sources of information.

Key Findings from the Survey

- Top Line Information:
  - Operating expenditures of more than $3 billion annually.
  - 130 individuals serving as CIOs or in an equivalent function within state agencies.
  - More than 10,000 authorized positions in IT classifications (annual payroll/overhead in excess of $1.5 billion).

- IT Projects
  - More than 120 large IT projects under development with estimated budgets exceeding $6.8 billion over 11 years.
  - More than 500 small to medium IT projects under development.

- IT Human Capital
  - More than 50% of the state's IT workforce will be eligible to retire within the next five years.
  - Existing IT leadership capabilities require further development.
  - Deferred spending on workforce development has resulted in skill gaps and shortages in key areas (e.g. project management and business analytics).

- IT Infrastructure - Data Centers, Servers and Storage
  - The state has approximately 409,000 sq. ft of floor space in 405 locations dedicated to data centers and server rooms.
  - Approximately 33 percent of data center floor space lacks sufficient disaster recovery and backup capabilities.

  - The state owns and operates more than 9,494 servers. More than a third of these servers are at, or near, end of life (3+ years old).
  - Agencies are operating 259 storage systems (159 Storage Attached Network (SAN) systems and 100 Network Attached Storage (NAS) systems.

- IT Infrastructure – Desktop
  - More than 200,000 desktops/laptops in use by Executive Branch agencies, with a refresh cycle ranging between three to five years.
  - The average desktop in use requires 4 to 16 times more energy than a laptop computer operating with advanced power management.
  - More than 100 different email systems.
    - 180,000 active email boxes.
    - 75 terabytes of storage (75,000 gigabytes).
    - 15 million emails per day.

- IT Security
  - Explosion in e-mail spam – ~95% of the e-mail the state receives each day is spam.
  - The state's network vulnerability is projected to increase by more than 800 percent by 2018 if we maintain the current operating model.

From the information gathered from the survey, the OCIO reached the following conclusions:

- The State maintains a significant number of IT facilities, equipment, and staff across individual organizations. This provides an opportunity for consolidation, particularly with email services.
- The State could improve governance, stake holder buy in, and communication of IT investments by standardizing reporting relationships as well as roles and responsibilities within state agencies for setting IT priorities.
- The State could improve the management of IT resources by increasing the centralization of services.
- State data centers are a prime target for efforts to improve energy efficiency.
- Web and e-mail security threats are increasingly sophisticated.

III. The Case for Reorganization

Modern technology governance is no longer just about technology; it is about leadership in effectively and efficiently managing an organization's use of technology to meet its business needs. It includes the structures and processes for setting direction, establishing standards and principles, and prioritizing IT investments that improve business value. IT governance is the mechanism for deciding who makes what decisions about technology use and it creates an accountability framework that drives the desired use of technology. Effective information technology governance also includes the processes by which key decisions are made about IT investments. Similarly, IT project success depends on effective, ongoing communication across all levels of an organization.

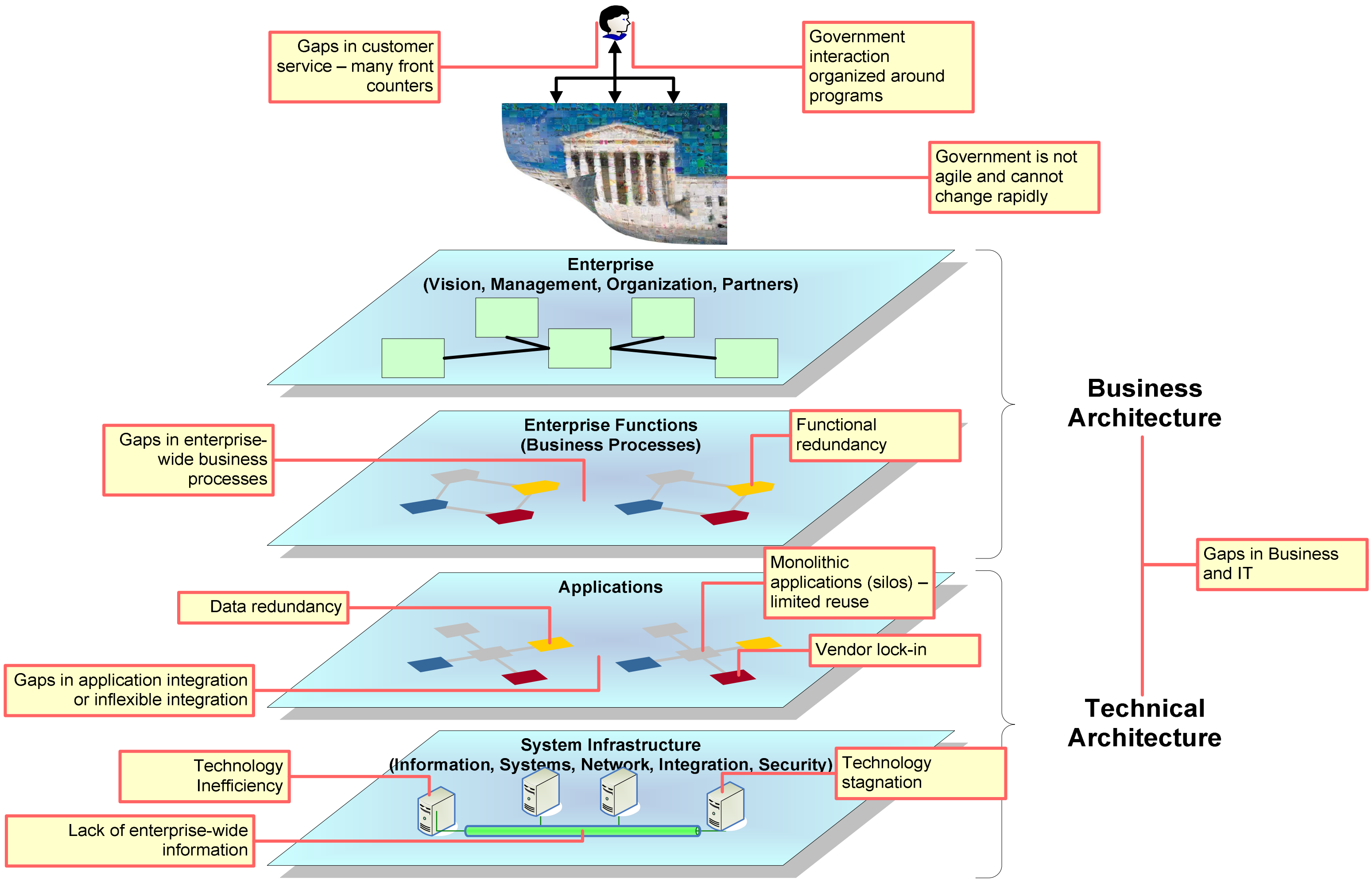
The central question, which this plan addresses, is *why* reorganize and *why* reorganize now? California must reorganize its information technology governance structure to:

- Establish a common sense governance model that aligns with best practices.
- Increase coordination and operational efficiency, reduce costs and improve energy efficiency through statewide IT shared services, common IT standards, and consolidated IT infrastructure.
- Meet growing public expectations for services accessible anytime and anywhere over the Internet.

The Challenges and Opportunities of the Status Quo

While significant progress has been made toward enhancing information technology governance and management in California state government over the last several years, significant challenges and opportunities remain. These challenges and opportunities occur at every level of the state's business and technical architecture (see Figure 1 below) and result in sub-optimized efforts that dissipate resources and produce inconsistent results. They expose the state to higher overall operational costs from program overlaps, redundancies, inefficient use of resources and increased vulnerabilities to security threats and architecture breakdowns.

Figure 1: The Challenges and Opportunities of Status Quo IT Governance



As the Little Hoover Commission recently observed, the dispersion of information technology assets, including human and economic capital and technology infrastructure, across agencies is the greatest challenge to accountable and effective information technology governance in California state government.[iii] This condition reinforces organizational silos, adversely impacting technology operations as well as programmatic efficiency and fiscal performance.

Computing Infrastructure Challenges

To support the automation of business processes, agencies rely on a wide assortment of systems and storage devices that include: file and print servers, application and database servers; Internet and Intranet servers; and Network Attached Storage and Storage Attached Network Systems. The management of these systems is intended to ensure that data is physically stored, retrieved, archived and deleted as needed to support business functions. Outside of the state's data center environments, the management of systems and storage technologies is distributed across all agencies and results in diverse technical environments. The proliferation of distributed systems and storage devices has brought with it the necessity to manage increasingly complex environments. The total cost of ownership is inevitably higher in a complex environment. Research by Gartner shows that 40 percent of all application unavailability experienced by end users is caused by human error; these errors are more likely to occur in complex technical environments. Additional challenges due to highly differentiated technical environments include:

- Difficulty in coordination resulting in technology inefficiency as well as functional and data redundancy.
- Challenges to integrating IT systems, which impedes information sharing across the enterprise.
- Duplication of effort, which limits the state's ability to leverage its scale to reduce the cost of operations.
- Dilution of the state's ability to reliably operate its technology infrastructure, exposing the state to increasingly sophisticated security threats.
- Underutilization of servers and data storage equipment resulting in increased technology operating costs, the inefficient use of energy and ultimately diverting resources from accomplishing programmatic missions.

Computing Infrastructure Opportunities

Centralized management and the careful consolidation of systems and storage devices offer the state numerous benefits that include: reduced complexity and support costs, lower error rates, better support for new business applications, as well as improved security, business continuity protection, and scalability and performance.

- Case Example – The state currently owns and operates more than 9,494 servers. If growth in the number of servers continues at the current pace, it is estimated that the state will own and operate more than 18,000 servers by 2014. Informed by industry best practices around server consolidation and virtualization, the OCIO estimates that the state could reduce the total number of servers it owns and operates by 50 percent without impacting system performance or service levels. This common sense approach to technology management would result in significant cost savings, cost avoidance and reduced energy usage over time.

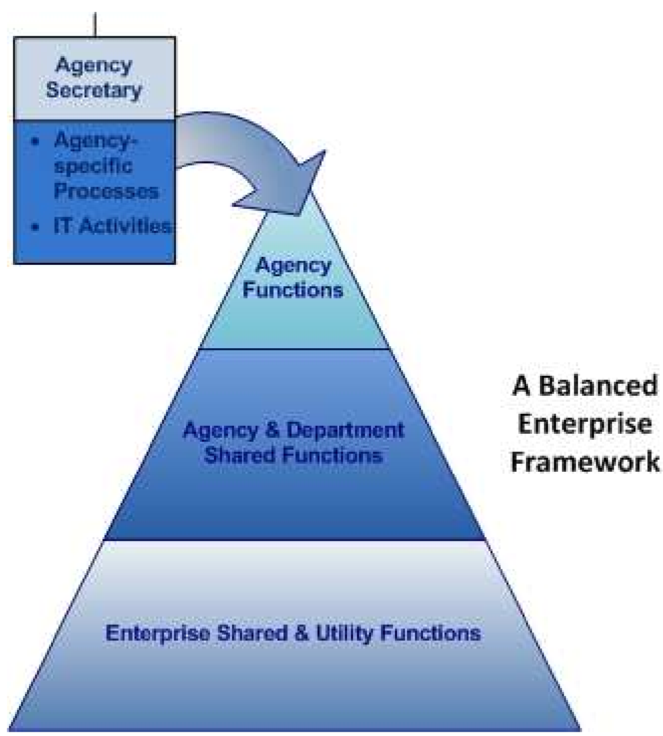
IV. Governance Aligned

The building blocks for a strong IT program are in place. By creating the Office of the State CIO at the Cabinet level, appointing an accomplished CIO and supporting the effective use of information technology throughout his Administration, the Governor in partnership with the legislature have established the necessary conditions for success. Success, however, requires more than building blocks. Providing the appropriate governance structure is essential. The governance process must facilitate good decision-making and ensure that services are delivered cost-effectively. In arguing for an invigorated IT governance structure, the Little Hoover Commission said:

> "The state CIO must be given the authority to set and execute technology priorities as laid out in the state's (2008) IT Strategic Plan. The state CIO must be given the resources to accomplish the task."[iv]

Also, the governance model should make possible transformation of service delivery across state government. Figure 2, below, depicts how California would transform the provision of IT services in support of agency programmatic missions.

Figure 2 – IT Services in Support of Agency Missions

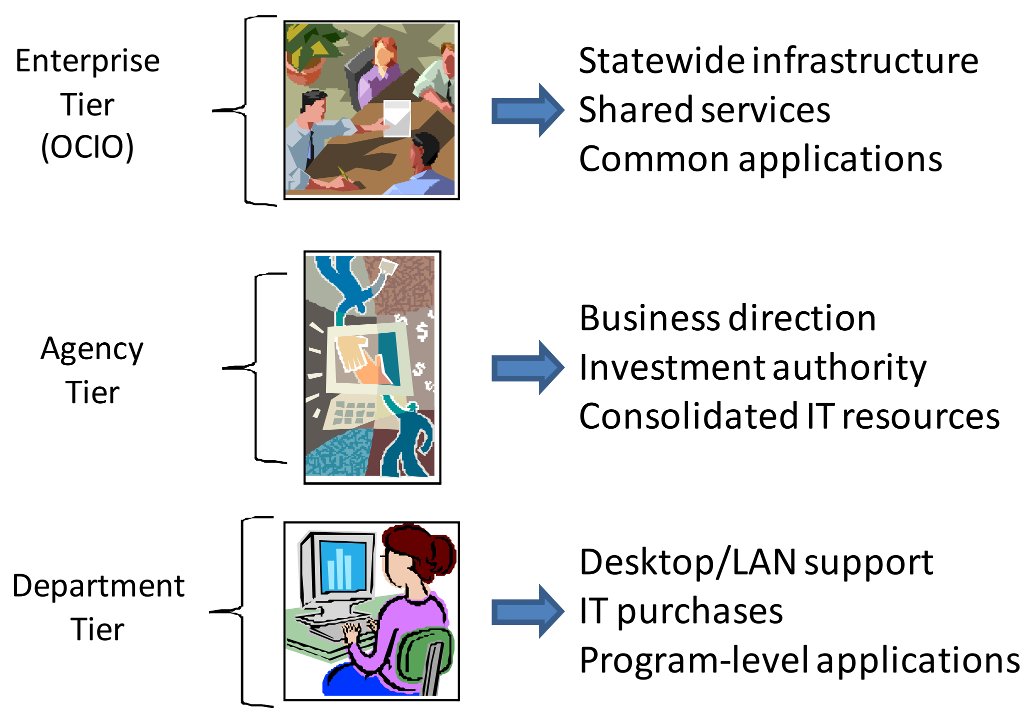


The governance model should align with the organization and decision-making structure of the Executive Branch, with Agencies establishing the policies and business priorities in program areas and Departments, within Agencies, execute policy direction and deliver government programs. Statewide control agencies, including the Department of Finance and the Department of General Services, manage and oversee the budget, support services and procurement. The Governor appoints Agency Secretaries, which (along with other appointees) comprise his Cabinet.

In addition to aligning with the decision authorities of the California Executive Branch, an effective IT governance process should also:
- Maintain decision authority at the appropriate tier;
- Provide statewide IT infrastructures and services;
- Consolidate IT resources to increase capacity and reduce costs;
- Improve management of IT projects;
- Streamline approval, purchase and oversight processes; and
- Foster collaboration and data sharing.

The federated governance model articulated in this Reorganization Plan (see Figure 3 below) satisfies the goals listed above while maintaining accountability at the responsible tier.

Figure 3 – Accountabilities in the Federated Governance Model



In the federated governance model, depicted in Figure 3 above, responsibilities will be divided as follows:

- The Enterprise Tier will provide robust IT infrastructure for the entire government, offer shared technology services across government, provide oversight to reduce risk in IT project management, and enhance security and stakeholder privacy.

- The Agency Tier will provide program policy and direction, prioritize Agency IT investments, and consolidate IT resources reduce operational costs.

- The Department Tier will provide local desktop/LAN support, manage business specific applications and purchase IT resources necessary for department activities.

Ultimately, this Reorganization Plan proposes to transform the existing IT governance framework from one that is focused on the needs of individual agencies to one that provides affordable, consistent and reliable technology services to all state agencies, while supporting the diverse needs of individual agencies. The plan introduces the concept of California's state government as a single enterprise in its use of information technology.

This governance framework consolidates enterprise information technology functions under the Office of the State Chief Information Officer to improve coordination and realize significant efficiencies in procurement and technology implementation.

This approach flows from business strategies and drivers and uses enterprise architecture to ensure the wise investment of limited resources. The federated governance framework enables operational improvements by defining common or shared technology (enterprise architecture) standards across diverse program areas, providing interoperability and supporting the diverse programmatic missions of state agencies. This approach also establishes a common platform and standards for operations and growth, improves the speed of implementations and provides an optimal return on investment.

V. The New Organization

The federated governance framework ensures the integrated and strategic use of technology resources statewide by bringing together the state's key IT policy and operating functions and organizations, defining the role of the State CIO and the OCIO as well as providing the organizational framework for Agency and Department technology leadership.

When it takes effect, this Reorganization Plan would establish an expanded Office of the State Chief Information Officer made up of the following existing organizations:

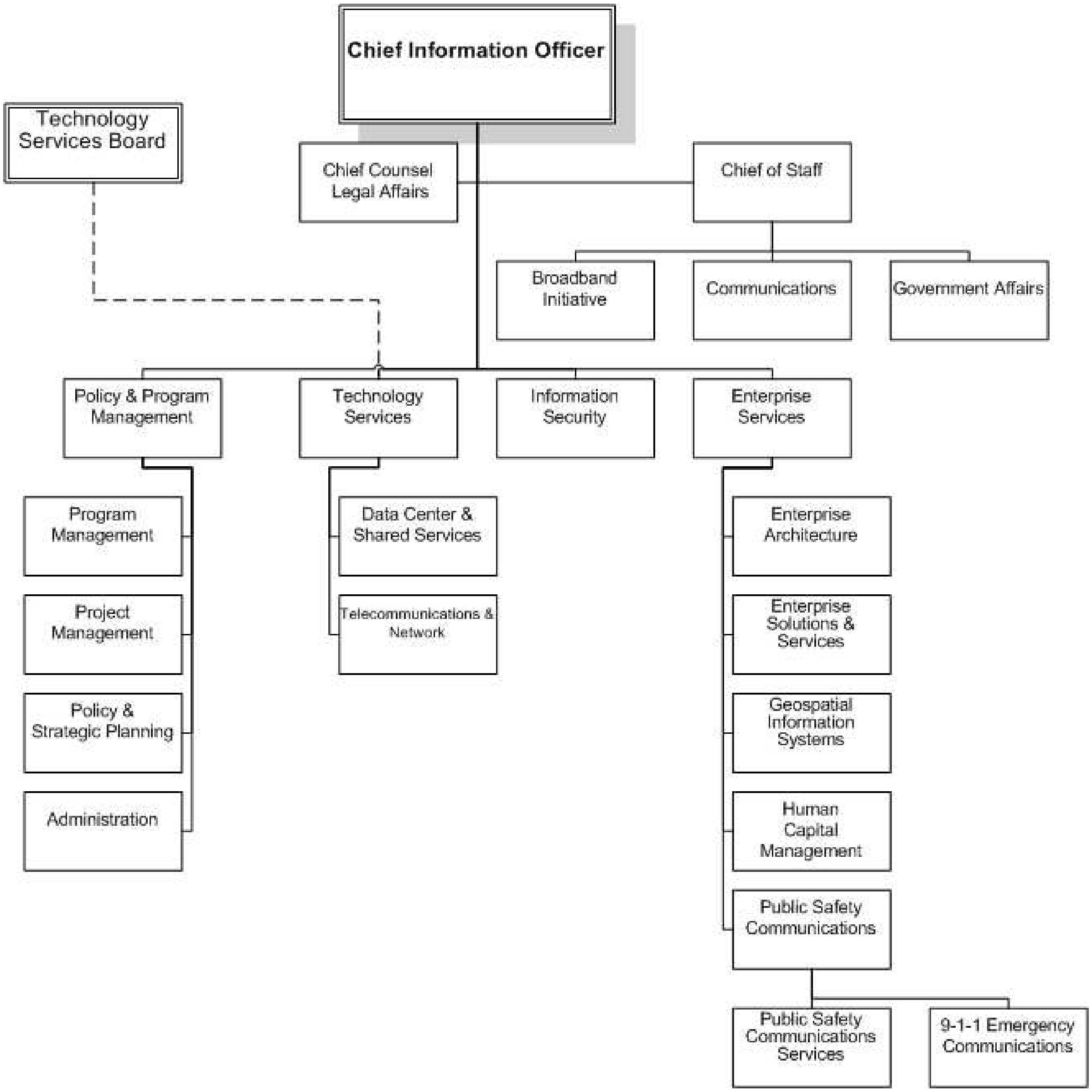
- The Office of the Chief Information Officer;
- The Office of Information Security and Privacy Protection (information security functions);
- The Department of Technology Services (including the Technology Services Board); and
- The Department of General Services – Telecommunications Division.

In addition to its existing functions, the expanded OCIO would gain responsibility for key functions, including:

- Enterprise Information Technology Management;
- Enterprise Information Security;
- Data Center and Shared Services;
- Unified Communications Services (voice/video/data networks and radio systems);
- IT Human Capital Management;
- Information Technology Procurement Policy; and
- Broadband and Advanced Communications Services Policy.

The organization that would result from this Reorganization Plan (see Figure 4 below) aligns with best practices in the public sector and directly supports the state's policy goals and programmatic initiatives.

Figure 4 – Proposed Office of the State Chief Information Officer



Executive Office of the CIO

The CIO will continue to report directly to the Governor and serve as the primary point of accountability for the management of the state's integrated information technology and security program. The Executive Office will consolidate functions that cut across program areas to create a unified, enterprise-wide approach to IT and information security policy and operations. The CIO will continue to fulfill all current Agency Secretary roles. In addition, the CIO will advise and assist in the implementation of major policy and program matters and be the principal communication link between the Governor and the constituent units of the Office. The CIO remains a cabinet-level position, appointed by the Governor and confirmed by the Senate.

Crosscutting and coordinating responsibilities that will be consolidated in the Executive Office, include the following:

- California Broadband Initiative Office –The Office will provide leadership on policy initiatives related to broadband and advanced communications services, including coordinating the implementation of the California Broadband Task Force Report (except those recommendations related to right-of-way).
- Office of Government Affairs – The Office will serve as the OCIO's liaison to the Legislature, analyze federal and state legislation related to information technology and security issues, coordinate the development of legislation and monitor legislatively mandated reports.
- Office of Communications – The Office will act as the OCIO's liaison to employees, the news media, community groups and other external organizations.
- Office of Legal Affairs – The Office will coordinate the OCIO's legal activities and provide the CIO with legal counsel.

<u>Transferred Functions:</u>

The CIO will fulfill all current responsibilities of the State CIO as well as the functions of the director of the DTS, the director of OISPP for information security and the Director of General Services' responsibilities related to telecommunications. The State CIO will now provide IT direction to Agency and Department Chief Information Officers. In addition, the State CIO will assume authority for IT procurement policy and performing enterprise technology functions.

Divisional Structure and Responsibilities

The OCIO will be comprised of the Technology Services Board and four offices – the Policy and Program Management Office, the Office of Technology Services, the Office of Information Security and the Enterprise Services Office.

Policy and Program Management Office – The Office, which will be led by the Chief Deputy CIO, will be responsible for the information technology performance management and ensuring that the state strategically manages its use of information technology resources to achieve the highest possible programmatic value. The office will be comprised of three IT policy/management focused groups (Program Management; Project Management; and Policy and Strategic Planning) as well as the Administration Group.

- Program Management: Will be responsible for providing primary support for program and project planning, investment analysis, portfolio management and support for agency projects as necessary. In addition, will participate in the development of state IT policies, standards and procedures for project development and management and provide statewide orientation and training on these subjects. The PMO will also ensure standardization in project management processes and project performance metrics for effective project management and uniform project performance assessment. Additionally, the PMO will coordinate and implement project remediation actions.
- Project Management: Will provide the execution leadership for large IT projects, including responsibility for the technology and change management components of IT projects, such as communications about objectives, roles and responsibilities, status and direction.
- Policy and Strategic Planning: Will be responsible for coordinating the development of the Statewide IT Strategic Plan, developing statewide policies and standards for the use and procurement of information technology, managing internal projects and initiatives, and coordinating other planning efforts.
- Administration: Will provide essential services for the administration of the OCIO and its programs, including facilities operations, financial management, human resources, and procurement and contracting.

Office of Technology Services – The OTS, which will be led by the Director of Technology Services[v], will be comprised of two key functional groups focused on technology operations and infrastructure – Data Center & Shared Services and Telecommunications and Network Services.

- Data Center Services: The DCS group will be responsible for core data center operations and services and will be made up of the Operations and Engineering Divisions.
    - Operations: Will provide information technology infrastructure platforms and network connectivity to meet customers' information technology needs 24 hours per day, seven days a week.
    - Engineering: Will install and maintain software and hardware for customers to ensure system reliability, availability and serviceability.
- Telecommunications and Network: Will provide statewide telecommunications services, including strategic and tactical policies and planning for the state to a wide variety of state and local government customers.

Technology Services Board – The Board, which will be chaired by the State CIO, will be responsible for approving the OTS' budget and rates.

Office of Information Security – The OIS, which will be led by the Director of Information Security,[vi] will be responsible for ensuring the confidentiality, integrity, and availability of state systems and applications, and promoting and protecting the privacy of Californians. The OIS will implement enterprise information security and privacy protection policies and practices to safeguard information to ensure the confidentiality, integrity and availability.

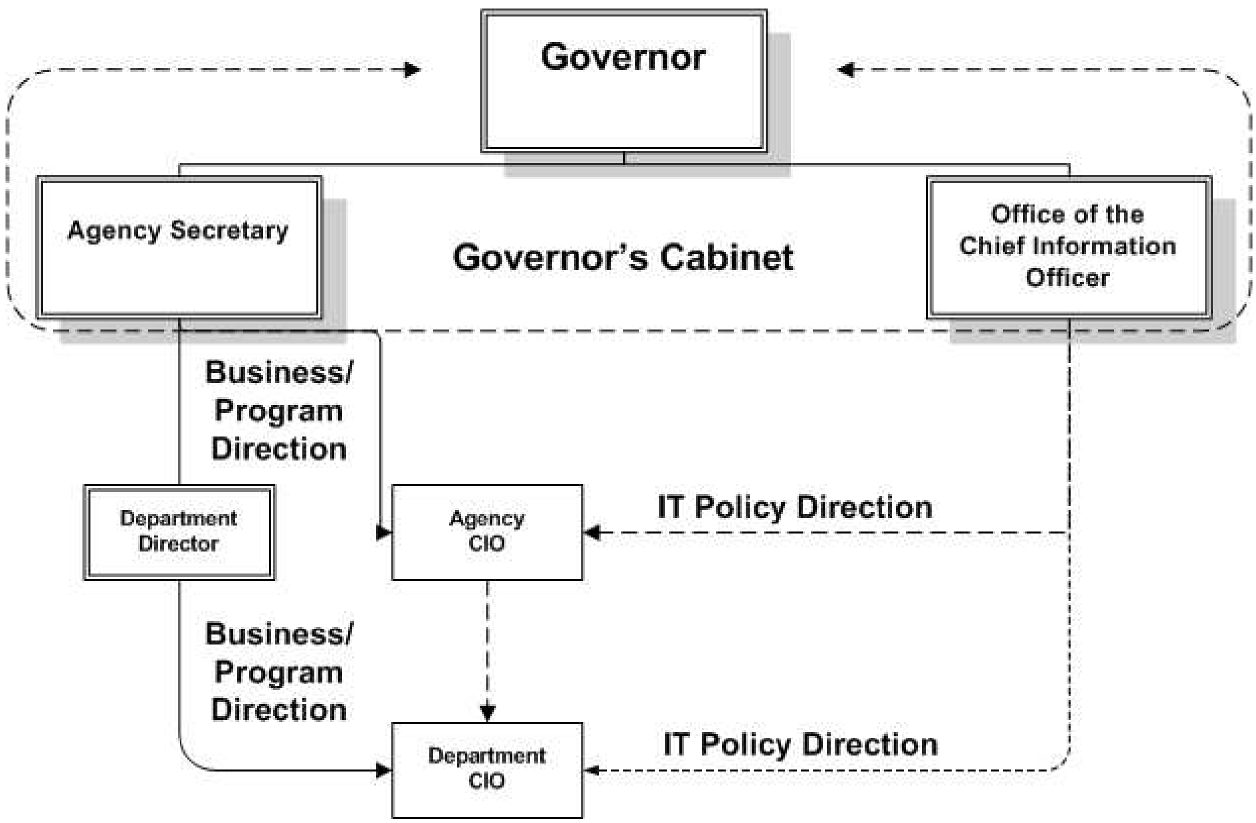
Enterprise Services Office – The ESO, which will be led by the Chief Deputy CIO for Enterprise Services, will be responsible for developing the state's enterprise architecture as well as robust, reliable and affordable enterprise services.

- Enterprise Architecture: Will define, maintain and guide the implementation of the state's enterprise architecture - the statewide roadmap to achieve the state's mission and goals through improving the performance of its core business processes within an efficient information technology environment.
- Enterprise Solutions and Services: Will manage the development and implementation of policy driven technology solutions and services.
- Geospatial Information Systems: Will build and manage the California Geospatial Data Infrastructure as a shared service to enable all state agencies to share the cost of storing, accessing, utilizing and distributing GIS data.
- Human Capital Management: Will be responsible for leading statewide efforts to recruit and retain skilled IT professionals, developing a statewide IT succession/workforce plan, and establishing a comprehensive development, training and performance management program for state IT employees.
- Public Safety Communications
    - Public Safety Communications Services: Will provide engineering and technical support services for public safety related communications systems.
    - 9-1-1 Emergency Communications: Will provide oversight of the 9-1-1 network and approximately 500 police, fire, and paramedic dispatch centers and assist in the administration and funding of 9-1-1 services.

<u>Transferred Functions</u>

This new organizational structure would result in the transfer of all of the functions from DTS, the functions of the Telecommunications Division of the Department of General Services, the information security functions of the OISPP as well as responsibility for information technology procurement policy.[vii]

Figure 5 – Federated Information Technology Governance Framework



Other Roles and Responsibilities in the Federated Governance Framework

When this Reorganization Plan goes into effect, the State CIO will be responsible for providing technology direction to Agency Chief Information Officers (AIOs) and Department Chief Information Officers (CIOs), see Figure 5 above. Specific activities include:

1. Integrating statewide technology initiatives;
2. Ensuring compliance with information technology policies and standards; and
3. Promoting the alignment and effective management of IT resources.

Agency Chief Information Officers (AIOs)/Non-Affiliated Chief Information Officers – AIOs will be responsible for overseeing the management of IT assets, projects, data systems, infrastructure, services and telecommunications, through the oversight and management of departmental CIOs. Each Agency CIO will be responsible for developing an Agency Enterprise Architecture to rationalize, standardize and consolidate IT infrastructure, data, and procedures for all departments within their Agency.

Department Chief Information Officers (CIOs) – CIOs will be directly responsible for all IT activities within the department and report to the State CIO through the Agency CIO for purposes of departmental IT performance management. All departmental employees in IT classifications will report to the Department CIO. CIOs will be responsible for all IT systems, assets, projects, purchases, and contracts and will ensure departmental conformity with the Agency Enterprise Architecture. Department CIOs will also be responsible for:

1. Portfolio management of the department's technology initiatives;
2. Operational oversight of IT functions, personnel and operations, including:
    - Web and application development;
    - Application and database management;
    - Security administration;
    - Telecommunications;
    - Project planning, consulting and management; and
    - Help desk and customer service management.

Chief Information Officers for Departments that are not affiliated with an Agency will have the responsibilities of an AIO, except those responsibilities related to oversight of Departmental CIOs, and the responsibilities of Agency-affiliated Departmental CIOs. Consistent with the federated governance model, the OCIO will work with agencies and departments to implement this operating model in a way that aligns with their business operations.

Other Organizational Changes

The transfer of the information security functions of the Office of Information Security and Privacy Protection (OISPP) to the OCIO that will occur when this Reorganization Plan goes into effect will result in the creation of the Office of

Privacy Protection (OPP) within the State and Consumer Services Agency. The OPP will continue to carry out the consumer focused privacy protection functions of the OISPP.

VI. Benefits of the Reorganization Plan

The federated governance framework articulated in this Reorganization Plan enables the strategic use of both human and IT resources to achieve a higher level of efficiency and effectiveness in the delivery of services, improve accountability and transparency and increase return on taxpayer investment. While this Reorganization Plan is the beginning of the transformation process, it:

Establishes a Single-Point of Accountability for Information Technology

- Integrating resources will result in greater transparency and accountability of operations, a more comprehensive and integrated investment planning process, and significantly improve the output and outcome reporting and analytic information base. This in turn will improve the state's ability to manage IT programs.

Consolidates Key Technology Assets and Policy Functions

- The federated operating model envisioned by this Reorganization Plan will place a premium on developing 'enterprise solutions' that are deployed across multiple agencies while consolidating other technology resources.
- Centralized management and the careful consolidation of systems and storage devices offer the state numerous benefits that include: reduced complexity and support costs, lower error rates, better support for new business applications, improved security, improved business continuity protection, and improved scalability and performance.
- In addition to improved technology and program alignment, increased efficiency and effectiveness, and supporting a statewide and cross-boundary approach, the organizational changes proposed in this Reorganization Plan enable a greater emphasis on data, information and knowledge management, and provide an improved platform for the transformation of government services and operations.

Supports Integrated Business and IT Planning

- Building on the IT Capital Planning Process, this Plan supports a robust integrated business-IT planning process that provides a coherent, repeatable process ensuring the alignment of IT strategy with public priorities and agency business plans. This process will result in a more efficient allocation of resources, with the potential for making more resources available for other policy priorities, as overall IT costs are reduced.

Promotes Data Sharing and Management

- This Reorganization Plan will enable a greater emphasis on data, information and knowledge management, including information sharing among and within agencies as well as information sharing with different levels of government.

Enhances Information Security and Disaster Recovery

- The statewide approach to information security and disaster recovery enabled by this Reorganization Plan will provide a consistent, integrated approach across agencies thereby making individual agencies less vulnerable to security breaches and operational downtime.

VII. General Provisions

This Reorganization Plan is effective on May 7, 2009. On the effective date, the plan shall become operative.

Transfer of Employees
Pursuant to Government Code Sections 12080.3 and 19370, all employees serving in the State Civil Service, other than temporary employees, who are engaged in the performance of functions transferred to the Office of the State Chief Information Officer or engaged in the administration of a law, the administration of which is transferred to the Office of the State Chief Information Officer by this Reorganization Plan, are transferred to the Office of the State Chief Information Officer. The status, positions, and rights of such persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the Office of the State Chief Information Officer.

Transfer of Property
The property of any agency or department, related to functions transferred as part of this reorganization, is transferred to the Office of the State Chief Information Officer. If any doubt arises as to where such property is transferred, the Department of General Services shall determine where the property is transferred.

Transfer of Funds
All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred by this Reorganization Plan shall be transferred to the Office of the State Chief Information Officer for use for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where such balances and funds are transferred, the Department of Finance shall determine where such balances and funds are transferred.

Endnotes

[i] See “50 State Information Summary,” The Pew Center on the States, Government Performance Project, Information Performance Grades. Online at: www.pewcenteronthestates.org/uploadedFiles/Information%20Performance.pdf

[ii] The survey can be viewed online at: cio.ca.gov/Publications/pubs/OCIO%20StatewideITSurveyReport.pdf

[iii] See “A New Legacy System: Using Technology to Drive Performance,” Little Hoover Commission, November 2008.

[iv] See “A New Legacy System: Using Technology to Drive Performance,” Little Hoover Commission, November 2008.

[v] The Director of Technology Services will be appointed by and serve at the pleasure of the Governor, and subject to Senate Confirmation.

[vi] The Director of Information Security will be appointed by, and serve at the pleasure of, the Governor.

[vii] Public Contract Code Sections 12101 and 12103 reference the Department of Information Technology as responsible for IT procurement policy.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, April 2, 2009
9:30 a.m. - Room 112

Consultants: Brian Brown and Bryan Ehlers

<u>Item Number and Title</u> **<u>Page</u>**

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.

Emergency Response Initiative (ERI)

Overview of ERI. In the January budget proposal, the Governor proposed to establish a secure funding stream to be used to enhance the state's firefighting and other emergency response capabilities – the Emergency Response Initiative (ERI). Specifically, the Governor proposed that a 2.8 percent surcharge be assessed on all residential and commercial fire and multi-peril property insurance statewide. The administration estimated that the surcharge would generate $69 million in 2009-10 and $278 million ongoing. The lower revenues in 2009-10 reflect the administration's estimates that the state would begin to receive those revenues in April 2010.

The new revenues generated by the surcharge are proposed to be deposited into the newly created Emergency Response Fund (ERF). The Governor proposes that the California Emergency Management Agency (CalEMA) administer the ERF.

The additional revenues generated by the surcharge are proposed to fund expanded emergency response capabilities in the state, primarily for firefighting. As such, most of the revenues are proposed to fund various spending proposals in CalFire for increased staffing on fire engines, information technology upgrades, and improved coordination of aviation activities during major fire disasters. The Senate Budget and Fiscal Review Subcommittee #2 will hear the merits of each of these spending proposals. In total, the administration proposes to spend $60 million from the ERF in 2008-09.

Administration ERI Spending Proposals by Department
(Dollars in millions)

Department	2009-10	2010-11
CalFire	$41.6	$65.0
CalEMA	16.2	16.9
Military	2.2	4.9
Totals	***$60.0***	***$86.8***

The administration also proposes that a share of the surcharge revenues – $18.4 million in 2009-10 and $21.8 million in 2010-11 – be used to fund several proposals in CalEMA and the Military Department. Most of this funding would be used to expand the state's fleet of fire engines. The administration proposes that any unexpended balance in the ERF be available to offset costs associated with fires or other state emergencies, costs that are typically borne by the General Fund.

Administration ERI Proposals for CalEMA and Military Departments

Proposal	2009-10	2010-11
CalEMA		
Wildland firefighting engines	$12,200,000	$13,000,000
Regional expansion	1,575,000	1,500,000
Fee collections/audits unit	650,000	1,300,000
Law enforcement mutual aid support	560,000	530,000

Emergency contingent contract	500,000	TBD
Sacramento-San Joaquin Delta	360,000	280,000
California State Warning Center	181,000	170,000
State Emergency Command Center	155,000	155,000
Subtotals, CalEMA	***$16,181,000***	***$16,935,000***
Military		
Aerial fire suppression assets	$2,200,000	$2,350,000
Modular Airborne Fire Fighting Systems	0	2,550,000
Subtotals, Military	***$2,200,000***	***$4,900,000***
Totals	***$18,381,000***	***$21,835,000***

LAO Proposes Alternative Approach. State Responsibility Areas (SRAs) are primarily privately owned timberlands, rangelands, and watershed areas. There are an estimated 860,000 homes in SRAs. CalFire spends considerable time and resources protecting homes in SRAs from wildfires and responding to other emergencies.

The LAO recommends that instead of applying a broad surcharge as the administration proposes, the Legislature should enact a fee on owners of structures in SRAs that would be generally proportional to the additional costs imposed on the state as a result of the presence of those structures. The LAO further proposes that these funds be used solely to offset CalFire wildland firefighting costs. In so doing, the LAO states that its proposal would result in General Fund savings, as well as be consistent with the "beneficiary pays" principle. Finally, the LAO notes that, based on its conversations with Legislative Counsel, the administration's surcharge proposal may actually be a tax as currently proposed which would have Prop 98 implications not accounted for in the administration's proposal.

Staff Comments. In reviewing the ERI, the Legislature must consider questions on two key issues: (1) the assessment of a surcharge, and (2) how any revenues generated would be used. This subcommittee will need to coordinate with Senate Budget and Fiscal Review Subcommittee #2 to address these questions.

- ***Assessing a surcharge.*** Should the state assess a surcharge? If so, which properties should pay this surcharge – all properties statewide or those in fire-prone areas serviced by CalFire? What amount of a surcharge should be applied? How would the LAO's alternative fee be structured?
- ***Use of revenues generated.*** How should the new revenues be used? What are the state's highest needs and priorities in emergency preparation and response? To what extent should new revenues be used to expand programs versus offset existing General Fund costs? What are the merits of each of the expenditure proposals made by the administration?

ERI Expenditure Proposals in CalEMA and Military Department

CalEMA - Wildland Firefighting Engine Fleet

Background. The CalEMA currently owns 141 fire engines and related equipment used and housed by local firefighting agencies in wildfire emergencies. A 2003 Governor's Blue Ribbon Commission recommended that the state's fleet be expanded to 272 fire engines in order to improve the state's ability to respond during wildfire emergencies.

Governor's Budget Request. The administration proposes about $12 million to $13 million annually over each of the next five years to purchase an additional 131 engines, funded from the Emergency Response Fund. The administration's proposal includes six additional staff positions to manage the expanded fire engine fleet.

	2009-10
Emergency Response Fund	$12,200,000
Positions	6

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends rejection of this request. The additional fire engines requested would be used to mitigate *potential* deficiencies in fire fighting equipment, rather than addressing an immediate need. According to the LAO, the existing mutual aid network—the system for sharing resources at the local, state, and national level in the event of an emergency—has allowed the state to successfully manage fire fighting resource needs in generally short timeframes when emergencies occur. Within the state, resources are often secured and relocated within a few hours. Out-of-state resources have also been generally secured in a few hours, with more distant resources available in two to five days. While expanding the state's ability to respond to wildfires may be an appropriate goal for the Legislature to pursue in the future, the LAO recommends rejection of the proposal given the persistence of the state's fiscal crisis.

Staff Comments. It is clear that additional firefighting engines would aid state efforts to combat wildland fires and other emergencies. Over the past decade, state General Fund expenditures for fire protection have tripled, from about $300 million in 1998-99 to almost $1 billion (estimated) in the current year. The issue before the committee is whether the proposed expenditures for firefighting equipment are worthwhile, particularly in light of the state's fiscal problem. The committee may want to address the following questions to the department.

- Have there been recent cases where the existing mutual aid network has been unable to provide timely assistance in an emergency? What would be the operational impact of the LAO's proposal to reject this proposal?
- How will the engines be distributed around the state? Will local communities be able to provide the additional staff necessary to operate these vehicles?

- Why are six positions required when the purpose of this request is to expand the fleet of fire engines housed and operated by local agencies? Are there any other ongoing state costs associated with the purchase of these vehicles?

CalEMA - Regional Expansion

Background. The CalEMA's three regional offices coordinate the efforts of state and local resources during and after emergencies. Personnel at these offices are responsible for all-hazards planning, conducting training and exercises, and coordinating emergency response.

Governor's Budget Request. The administration requests $3.2 million in the budget year ($3.0 million ongoing) and 19 positions in the regional offices to improve the state's response in an emergency. The requested resources would be used to mitigate potential deficiencies in services when multiple disasters occur simultaneously and in different regions of the state. The proposal will be funded in part out of Federal Funds and in part out of the newly proposed Emergency Response Fund.

	2009-10
Emergency Response Fund	$1,575,000
Federal Trust Fund	1,610,000
Total, All Funds	*$3,185,000*
Positions	19

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO raises concerns that this request does not address an immediate need in the emergency service being provided. The Legislature approved the use of federal funds for similar purposes in the form of grants to local governments in 2008-09 while rejecting the administration's request for state matching funds. The LAO recommends rejection of the requested Emergency Response Fund matching funds, while reauthorizing the federal funds as grants to local governments.

Staff Comments. In evaluating this proposal, the committee may wish to consider the following questions.

- What has been the historical staffing levels in the regional offices?
- How has the lack of the staff proposed affected department operations in the past? To what extent are these positions requested for emergency preparation versus response and recovery?
- How would the LAO's alternative affect the department's ability to administer emergency response?

CalEMA - Emergency Response Fund Fee Collections/Audits Unit

Background. The administration requests a change to the Insurance Code to create the ERF to be supported through a 2.8 percent surcharge on fire or multi-peril insurance policy premiums. CalEMA is proposed as the administrative agency responsible for managing the ERF.

Governor's Budget Request. The administration requests 10 positions effective January 1, 2010, to establish the Fee Collection and the Audit/Compliance Units in CalEMA to administer the new fund.

	2009-10	2010-11
Emergency Response Fund	$650,000	$1,300,000
Positions	5	10

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends against adoption of the new surcharge. If the Legislature does approve the insurance surcharge, the LAO recommends that it would be more appropriate to fund administration of the program through the Department of Insurance which collects existing insurance-related taxes. If the Legislature adopts the LAO's alternative fee proposal, the LAO recommends that it be administered by the Board of Equalization.

Staff Comments. The CalEMA is not currently responsible for collecting any other surcharges, fees, or taxes. Therefore, it is unclear that this department is best suited to administer any new fee, should the Legislature decide to enact one. Action on this proposal is contingent on what, if any, new surcharge or fee is enacted.

CalEMA - Law Enforcement Mutual Aid Support

Background. There are seven mutual aid regions in the state. Five of the seven regions are overseen by a Law Enforcement Coordinator who serves as the contact person for local law enforcement when additional resources are needed to respond to an emergency. The Law Enforcement Coordinator also facilitates the deployment of state resources (for example, CHP officers) or resources from other areas to the afflicted area and trains local law enforcement on how to use the mutual aid network effectively.

Governor's Budget Request. The administration proposes $560,000 in the budget year and ongoing from the Emergency Response Fund to provide Law Enforcement Coordinators at the remaining two regions (Regions III and V, covering parts of Northern and Central California, respectively). The proposal also includes two Emergency Services Coordinators—one for the Mass Fatality Management Program and one for the

Search and Rescue Mutual Aid Program—to improve planning and coordination in these programs.

	2009-10
Emergency Response Fund	$560,000
Positions	4

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends approval of the positions requested. Law enforcement coordinators play a unique role in managing the deployment of law enforcement resources in an emergency. The Mass Fatality Management and Search and Rescue Mutual Aid programs have experienced increased workloads.

Staff Comments. The department and LAO report that workload for these functions have increased significantly over the past several years. The committee may want to have the department report on how much workload has increased in recent years and what the key drivers of that workload has been.

- How have Regions III and V compared to the other five regions of the state with respect to the number and severity of emergencies in recent years?
- How has the department managed the responsibilities of mutual aid support in these two regions without a law enforcement coordinator?
- Specifically, how much has workload related to the Mass Fatality Management and Search and Rescue Mutual Aid programs increased in recent years? What has driven the increased workload?

CalEMA - Emergency Contingent Contract

Background. The CalEMA reports that it has limited ability to rapidly (within the first 24 hours of an emergency) deploy emergency response goods to vulnerable populations in the event of an emergency or disaster event.

Governor's Budget Request. The administration proposes $500,000 in one-time funding from the Emergency Response Fund to hire a contractor to study how to store, manage, and transport critical goods immediately after an emergency or disaster event.

	2009-10
Emergency Response Fund	$500,000
Positions	--

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends delaying funding for this study. While this may be a reasonable request, the LAO cannot recommend it at this time given the state's fiscal condition. The LAO also notes that length of time to complete the study and the associated out-year costs are unknown at this time.

Staff Comments. While the purpose of this proposal appears reasonable, the immediacy of the need is unclear. Further, the magnitude of the costs to implement any recommendations of the study is unknown and could be significant. The committee may wish to consider the following questions.

- Have there been some specific examples in California where goods were not provided to vulnerable populations in a timely fashion? What were the consequences of delivery delays?
- What would be the operational impact of the LAO's recommendation to delay this study?

CalEMA - Sacramento-San Joaquin Delta

Background. Chapter 608, Statutes of 2008 (SB 27, Simitian), requires CalEMA to establish a Sacramento-to-San Joaquin Delta Multi-Hazard task force that will submit a report to the Governor and Legislature prior to January 1, 2011, on a proposed emergency preparedness and response strategy for the Delta region.

Governor's Budget Request. The budget proposes to add two limited-term positions to establish the task force at a cost of $360,000 in the budget year ($283,000 in 20010-11) to be funded from the Emergency Response Fund.

	2009-10
Emergency Response Fund	$360,000
Positions	2

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends delaying implementation of Chapter 608. According to the LAO, the proposal is reasonable but should not be approved at this time given the state's fiscal condition.

Staff Comments. This proposal is consistent with an existing state law. In evaluating this proposal and the LAO's recommendation, the committee may wish to consider the following questions.

- What are the primary emergency threats to the Sacramento-San Joaquin Delta area that the task force would be responsible for evaluating?
- What risks would there be to delaying the completion of this report?

CalEMA - California State Warning Center

Background. The California State Warning Center is a round-the-clock operation responsible for providing emergency notifications and communications to local, state, and federal agencies of any natural disaster, human caused disaster, or emergency situation. The Legislature approved seven additional staff for the State Warning Center in 2006-07. However, the Legislature did not approve additional staff to supervise these employees.

Governor's Budget Request. This proposal would add one additional supervisor for Warning Center staff at a cost of $181,000 in the budget year and ongoing. The position is proposed to be funded from the Emergency Response Fund.

	2009-10
Emergency Response Fund	$181,000
Positions	1

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends rejection of this proposal. It is not clear that the requested resources would be used to mitigate a critical deficiency in services provided by the state.

Staff Comments. It is unclear whether there is a critical need for the requested position. The committee may want to ask the department how it has managed its staff in the absence of this position over the past couple of years. In particular, has the lack of a second supervisor position caused operational problems?

CalEMA - State Emergency Command Center

Background. The CalEMA currently contracts with CalFire for 3.5 fire captains to provide dispatching support in the State Emergency Command Center. State dispatching workload has increased due to the large number of fires throughout California. There were over 100 fire incidents in each of the past two years for which CalEMA provided dispatching support, and there was an average of more than 40 fire engines deployed per incident. This represents a notable increase over four of the prior five years.

Governor's Budget Request. The administration proposes to reimburse CalFire for an additional full time fire captain at the State Emergency Command Center at a cost of $155,000 annually, paid from the Emergency Response Fund.

	2009-10
Emergency Response Fund	$155,00
Positions	--

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends approval of this proposal. This transfer would improve CalEMA's ability to track and manage deployed fire and rescue resources during a fire.

Staff Comments. This request is tied to a notable increase in workload over the past couple of years based on the number of wildfires to which CalEMA and CalFire have had to respond. In part, though, the necessity of this funding request depends on whether it is reasonable to assume that wildfire response will be at similar levels ongoing. The committee may wish to address the following questions to the department.

- While the workload has been high the last two years, what makes the department believe this workload will continue in coming years and not revert to levels in prior years?
- The department reports that it has used CalEMA staff from the Fire and Rescue Branch to provide additional coverage and offset some of the fire captain duties, often requiring overtime. How much did this cost the department last year? Why is this option no longer viable?

Military Department - Augment Aerial Firefighting Capability

Background. Under federal law, the Governor may call to duty the National Guard to provide personnel and equipment in support of civilian agencies in the event of an emergency. The Military Department (CMD) annually plans and conducts an average of 42 aviation support missions, including wildfire suppression, search and rescue, personnel and equipment airlifts, and incident assessment over-flights.

Governor's Budget Request. The CMD requests $2.2 million (Emergency Response Fund) in budget year, $4.9 million in fiscal year 2010-11, $5.2 million in fiscal year 2011-12, and $400,000 ongoing thereafter, to procure and maintain new aerial firefighting equipment (see table below), including four UH60 Fire Suppression conversion kits (snorkel system) for helicopters and two Modular Firefighting Systems (MAFFS) for C-130 airplanes. According to the Administration, the requested equipment would improve the CMD's firefighting response capabilities, which currently consist of two MAFFS, twelve 660 gallon buckets, and five 2,000 gallon soft-sided buckets.

	2009-10	2010-11	2011-12	2013-14
Emergency Response Fund	$2,200,000	$4,900,000	$5,200,000	$400,000
Positions	--	--	--	--

2009-10 Enacted Budget. Rejected without prejudice.

LAO Recommendation. The LAO recommends denying this request given the state's dire fiscal situation. The Analyst points out that, although the requested equipment would likely improve the protection of life, property, and state resources, the CMD currently owns some firefighting equipment and the state has access to additional equipment owned by the CalFire as well as resources at the federal and local level. Therefore, the LAO does not believe this request ranks among the state's most critical and immediate needs.

Staff Comments. Staff notes that during the 2008 fire season, the Los Angeles Times ran an article entitled "Air tanker drops in wildfires are often just for show," which challenged the tactical value of aerial firefighting in many situations (see http://www.latimes.com/news/local/politics/cal/la-me-wildfires29-2008jul29,0,3486219.story). The piece quoted professional firefighters derisively referring to some aerial firefighting efforts as "political air shows" and "CNN drops" because they are tactically inappropriate and are instead motivated by a political desire to provide the public with visible evidence that the government is taking action in the face of a wildfire (when the hard work of ground crews might be less visible). The article went on to point out that aircraft have an important but limited role in the early stages of a fire—when they can help keep a fire in check until ground crews arrive—or in rough terrain that is otherwise inaccessible to ground crews, but aerial firefighting is highly costly and significantly less effective (dollar-for-dollar) in many situations than ground crews. The Committee may wish to have the CMD comment on the value of aerial firefighting, particularly with regard to whether California's marginal dollar in emergency response funding achieves a greater "bang-for-the-buck" by purchasing additional aerial firefighting equipment versus more conventional equipment (or additional firefighting personnel).

Staff additionally notes that, in a similar request last year, the CMD asked for 43 positions in order to provide a 24-hour a day aerial firefighting response capability throughout the state. The proposal was ultimately denied by the Legislature due to concerns about the fund source, but the justification accompanying the request highlighted the fact that "the CMD does not maintain 24 hour/day, seven day/week aircrew staff," and "duty, after hours, and weekend emergency response is not resourced by the Federal Government and must be funded by the State if this capability is desired." Therefore, the absence of a similar staffing proposal this year begs the question as to whether the equipment requested could not just as easily be borrowed from other entities (as suggested by the LAO) if CMD air crews are not necessarily going to be available to respond significantly more quickly than other mutual aid providers.

The committee may wish to address the following questions to the department.

- Additional firefighting resources are always nice to have, but have there been recent cases in which the state was dramatically under-resourced in terms of the aerial firefighting capability it was able to bring to bear? If so, what were the consequences (e.g., in terms of fire damage)?
- In light of the questions raised in the Los Angeles Times article noted in the staff comments, why are the dollars requested better spent on this new equipment as

opposed to more conventional firefighting equipment or personnel (i.e., how do they compare in terms of "bang-for-the-buck")?

- On average, how long does it take the CMD to get an aerial firefighting crew in the air and to the scene of a fire? How does this compare to other mutual aid responders that the state can call on in the event of an emergency?
- In three years, how much will our $12 million investment in new equipment have quantitatively enhanced our aerial firefighting response capability? For example, on average, how many additional acres of forest can we expect to preserve, or how much personal property will we be able to save annually as the result of having this equipment? (Some examples of how this equipment would have benefited the state in past fires may be helpful in illustrating the Administration's response.)

California Emergency Management Agency (CalEMA)

The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response and recovery.

Further, CalEMA improves the criminal justice system in California by providing financial and technical assistance to local governments, state agencies, and the private sector for public safety and victim services.

The department has a 2008-09 budget of $1.3 billion, more than $1 billion of which is funded through federal funds. The department's budget includes about $125,000 from the General Fund. The CalEMA has about 600 employees.

American Recovery and Reinvestment Act – Federal Stimulus Funds

Background. The American Recovery and Reinvestment Act of 2009 (ARRA), passed by Congress in February, provides about $4 billion for justice programs. Some of these federal stimulus dollars will be provided directly to local and other agencies based on federally established formulas. In other cases, agencies will have to apply directly to the federal government for funds.

Acting as the State Administering Agency for California, CalEMA will have discretion over the allocation of about $152 million of the ARRA funds coming to the state.

Most of this funding awarded by CalEMA - $136 million – will be associated with the Edward Byrne Memorial Justice Assistance Grant Program (Byrne/JAG) which can be used for a variety of law enforcement, crime prevention, and rehabilitation purposes. California received about $11 million in these funds in 2008.

Two additional funding programs that will be administered by CalEMA are the Violence Against Women Act (VAWA) and Victims of Crime Act (VOCA), receiving a total of $16 million.

Federal Stimulus Funds Administered by CalEMA
(Dollars in millions)

Program	Amount
Byrne/JAG	$136
Violence Against Women Act	13
Victims of Crime Act	3
Total	**$152**

Staff Comments. Historically, CalEMA, in consultation with the California Council on Criminal Justice, has broad discretion to administer grant awards for these federally-funded programs. While CalEMA continues to have this authority, the magnitude of funding administered has increased substantially. For this reason, it is important for the committee to have a clear understanding of how these federal dollars will go out to local agencies, as well as what outcome information will be required to be reported to CalEMA. The committee may wish to ask the department the following questions:

- What is the process for agencies to receive these funds? To what extent will funding go out on a formula basis versus based on a competitive grant process?
- What is the timeline for agencies to apply for funds? How long does the department have to distribute these funds?
- Of the $152 million administered by CalEMA, how much is required to go out to local agencies? How much is available for state use?
- How will CalEMA prioritize how these funds are used? What is the role of the Legislature in setting priorities?
- What are agencies receiving these funds required to report to CalEMA regarding usage of the funds and program outcomes?

Recovery Program Backlog

Background. The CalEMA serves as the state's administrator for disaster recovery funds provided to the state on behalf of eligible applicants after a Presidential Declaration of a Major Disaster or Emergency or the approval of a Fire Management Assistance Grant. The CalEMA also manages the California Disaster Assistance Act funding which provides state funding to eligible applicants after a qualifying emergency. Significant staff work is required to manage these recovery operations. The 2007-08 budget included $1.2 million and 14 positions, including eight limited-term positions, to reduce the backlog in the Recovery Program workload.

Governor's Budget Request. The administration requests the conversion of the previously approved eight limited-term positions to permanent to continue efforts to reduce the backlog of disaster recovery funds. These positions would cost a total of $1.2 million in the budget year and ongoing and would be funded half by the General Fund and half through federal funds.

	2009-10
General Fund	$599,000
Federal Trust Fund	598,000
Total, All Funds	*$1,197,000*
Positions	8

2009-10 Enacted Budget. Included as proposed.

Staff Comments. These eight positions were initially authorized as limited term because it was unclear whether the additional positions would be necessary over the longer term. In order to justify the need for ongoing position authority, the department should be able to demonstrate that the positions have allowed it to reduce the backlog of recovery cases and ensure that federal recovery dollars make their way to local agencies, the purpose for which they were established. Therefore, the committee may want to ask the department for data on the workload coming into the program, the number of applications closed, and the state of the backlog compared to two years ago.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Mark DeSaulnier, Chair
Tom Harman
Gloria Negrete McLeod
Roderick Wright

Agenda – Part "A"

Hearing Outcomes

Note: Senators in attendance were DeSaulnier, Negrete McLeod, and Wright – all 3-0 votes reflect the votes of those Senators

Thursday, April 23, 2009
9:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

Note on the 2009-10 Budget Process: On February 19, the Legislature approved the 2009 Budget Act (SB 1XXX). However, certain items were withheld from the budget, without prejudice, pending a more thorough discussion in the budget subcommittees. Items withheld generally met one or more of the following criteria: (1) were rejected in a prior budget year; (2) have substantial policy implications – for example, information technology of the state's bond capacity; or (3) represent a new program or expansion. Additionally, there are numerous pieces of trailer bill language proposed by the Administration that were not adopted and that require further consideration. The issues in this agenda are these aforementioned issues, April Finance Letters, and other issues of interest to the Subcommittee.

Proposed Consent Calendar

9840 Augmentations for Contingencies or Emergencies

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), 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. Identical funding was approved by the Legislature with the 2008 Budget Act.

The Administration requests a technical change to budget bill language. The Administration requests the below change to Provision 7 of Item 9840-001-0001. This change is requested to clarify limits on use of this authority to the appropriation amount, instead of the amount sub-scheduled within the item. This revised language was developed in consultation with the Legislative Analyst and Legislative Staff, and no concerns have been raised.

> 7. For any transfer of funds pursuant to this item, the augmentation of a General Fund item of appropriation made by this act shall not exceed the following during any fiscal year:
> (a) 30 percent of the amount ~~scheduled, for those scheduled amounts~~ <u>appropriated, for those appropriations made by this act</u> that are $4,000,000 or less.
> (b) 20 percent of the amount ~~scheduled, for those scheduled amounts~~ <u>appropriated, for those appropriations made by this act</u> that are more than $4,000,000.

0950 State Treasurer

The State Treasurer's Office (STO), a constitutionally established office, provides banking services for state government with goals to minimize interest and service costs and to maximize yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the state; investment of temporarily idle state monies; administration of the sale of state bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other state agencies. The 2009 Budget Act (SB 1XXX) included $5.1 million General Fund for the Treasurer. However the Governor vetoed this amount down to $4.5 million citing the Executive Order to furlough state employees for budget savings.

The Administration requests a technical change to correct the allocation of the veto among fund sources (April 1 FL). This change is net-zero overall – it generally shifts some of the reduction from General Fund to reimbursements to correctly budget the furlough-related veto allocation.

Staff Recommendation: Approve these technical adjustments on the Consent Calendar.

Action: Approved consent issues on a 3-0 vote.

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency (BT&H Agency) is a member of the Governor's Cabinet and oversees 16 departments, including the following large departments:

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

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

- Infrastructure and Economic Development Bank
- Film Commission
- Small Business Loan Guarantee Program
- Tourism Commission

The Governor proposes total expenditures of $20.9 million ($5.5 million General Fund) and 65.4 positions for the Office of the Secretary – a decrease of $940,000 and an increase of 2.0 new positions. The adopted 2009 Budget Act is consistent with the Governor's proposed budget, except the $221,000 Infrastructure Bank staff request (Budget Change Proposal (BCP) #2) was deleted from the budget without prejudice to allow for further review in the subcommittee.

Discussion / Vote Issues:

1. **Infrastructure Bank: Staffing Augmentation (BCP #2).** The Administration requests an augmentation of $221,000 (special fund) and 2.0 Loan Officer positions for workload related to the monitoring of bond and loan proceeds. Base staffing is 25.0 positions. The Infrastructure Bank (I-Bank) provides financial assistance to local governmental entities, as well as non-profits and small-to-medium manufacturing companies, through a variety of financial instruments. Funding for this proposal was withheld from the 2009 Budget Act (SB 1XXX) without prejudice for a more thorough subcommittee review. It was excluded because the request relates to positions rejected by the Legislature last year.

   Detail on last year's budget action: Last year, the Administration requested an augmentation of $665,000 (special fund) and 7.0 positions for workload, administrative oversight, monitoring of bond and loan proceeds, and marketing. The LAO had reviewed the I-Bank operation in the fall of 2007 and recommended that only 5.0 positions be added – the Legislature adopted this LAO recommendation (reducing the Administration's request by 2.0 positions).

   I-Bank Financing: The core program of the I-Bank is the Infrastructure State Revolving Fund Program, which helps finance local public infrastructure. Initial funding of about $182 million came from the General Fund in 1998-99 and 1999-

2000. Since then, the I-Bank has issued $153 million in revenue bonds to expand the program. The Administration indicates that workload grows as the cumulative amount of outstanding loans grows. In addition to the revolving loan program, the I-Bank administers various tax-exempt bond programs for small-to-medium sized manufacturing companies and non-profits, for which the state incurs no liability.

Staff Comment: The Administration's workload justification for the augmentation appears unchanged from last year's request, and staff understands the LAO recommendation (to reject establishment of these two positions) is also unchanged.

Staff Recommendation: Reject this request.

Action: Rejected proposal on a 3-0 vote.

2. **California Film Commission: Staffing for new tax credit (April FL #1).** The Administration requests an augmentation of $644,000 (General Fund) and 5.0 positions (1.0 limited term) to administer the new film tax credit program created by SB 15XXX. The new film credit is a five-year program with credits capped at $100 million per year and is intended to retain film production in California and attract new film work to the state. Ten percent of the credits are reserved for independent films. The California Film Commission (CFC) will: (1) adopt regulations; (2) award credit allocations to qualifying productions; and (3) issue a credit certificate to the qualifying taxpayer at the end of production. Taxpayers would then use their credits on their tax return filed with the Franchise Tax Board (FTB). (Note: the FTB also has a budget requests related to the Film Credit and that department will be heard in Subcommittee #5 on May 7).

   Staff Comment: Since release of the April Finance Letter, the Film Commission has worked with the LAO and legislative staff to refine their proposal. There is workload associated with the new film credit, and the Commission should be provided sufficient staff to fairly and efficiently implement the program. However, the Film Commission is a General Fund entity and new expenditures should minimized. After reexamining the funding need, the Administration now believes it could successfully implement the program with $417,000 (General Fund) and 3.5 positions (0.5 limited term) – this would be a reduction of $227,000 from the original proposal. The savings is both related to position savings and a lower estimate of information technology costs.

   Staff Recommendation: Keep issue open. The Senate Budget Consultant responsible for the Film Commission budget is also responsible for the FTB budget – direct staff to continue to work with both the Film Commission and the FTB to make sure the implementation is coordinated between the agencies and funding and staffing is set at appropriate levels.

Action: Held issue open – the Film Commission will continue to work with LAO and staff on funding justification, reporting, etc.

3. Chrome Plating Pollution Prevention Fund Sweep to General Fund: (April FL). The Administration requests statutory language to abolish the Chrome Plating Pollution Prevention Program and sweep the $3.6 million in special fund balances to the General Fund. The special fund money originally came from the General Fund, so it can constitutionally be transferred.

Background on Program: The Chrome Plating Pollution Prevention Program was established by AB 721 (Chapter 695, Statutes of 2005, Nunez). The program was established at the BT&H Agency as a loan guarantee program. The program was funded from the amount remaining in the Hazardous Waste Reduction Loan Account – this account contained funds derived from the General Fund, for a program that had become defunct. According to the analysis of AB 721, the overall goal of the bill is to encourage chrome platers to upgrade their facilities and, indeed, go beyond the minimum necessary for compliance.

Status of the Program: The BT&H Agency indicates that no applications have been received for a loan guarantee under this program. The Chrome Plating Pollution Prevention Fund currently has a balance of $3.6 million. There is also one active loan of $127,000 in the defunct Hazardous Waste Reduction Loan Program that should eventually be repaid to the Chrome Plating Pollution Prevention Fund (or the General Fund under the Administration proposal). The BT&H Agency indicates that a new Air Resources Board hexavalent chrome rule comes into effect October 2009. The new rule could spur some interest in the loan-guarantee program. Under current law, the program sunsets on January 1, 2012.

Staff Comment: The fund sweep and program elimination proposal were not part of the Governor's special session proposals, so the April Finance Letter is the first time this budget reduction option has been presented. The BT&H Agency should be prepared to discuss why the program has not had any applicants, and what the future prospects might be for utilization of the program. If the May Revision revenue forecast suggests additional budget reductions are necessary, the subcommittee could consider this proposal, or a modified proposal to shift a portion of the special fund balance, but maintain some funding for a continuing program. If no applications are approved through June 2012, the program would be abolished at that time and the funds could then be returned to the General Fund.

Staff Recommendation: Take no action on this proposal. This issue can be revisited after the May Revision as warranted.

Action: No action taken – this proposal may be revisited after the May Revision at the discretion of the Subcommittee.

2400 Department of Managed Health Care

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

The Governor proposes $47.8 million (no General Fund) in total expenditures and 320.0 positions for the department – an increase of $3.4 million and 20.9 positions. The cost of the DMHC is funded through fees charged to health plans. The adopted 2009 Budget Act is consistent with the Governor's proposed budget.

Issue for Discussion:

1. **Regulatory Work of DMHC (Informational Issue).** Statute requires DMHC to adopt regulations, as necessary, to carry out its responsibilities. In many cases, these regulations have a significant impact on the industry and the 22 million Californians who belong to HMOs. While the policy issues behind the regulatory work are primarily under the purview of the Health Committee, changes in regulation is one driver of workload which affects the budget.

   Recently-Concluded Regulations: The regulatory process recently concluded for the following issues:

   - **Balance Billing.** On October 15, 2008, regulations went into effect that banned the practice of balance billing. Balance billing was the practice that happened most often in emergency care situations, when a doctor or hospital was not contracted with the patient's health plan. Health plans by law must pay only the reasonable and customary value of those services – often less than the provider's billed charge. In the past, it was not uncommon for the patient to be billed for the difference, or "balance billed" – putting the consumer in the middle of what was essentially a dispute between providers and health plans.

   Currently-Open Regulations: The regulatory process is still open for the following issues:

   - **Discount Health Plans.** The DMHC indicates the draft regulation is in the final stages of development. Discount health plans promise that, for a prepaid fee (which is typically much less than health insurance), they will arrange for the enrollee to obtain a discount on health care services. The DMHC has received complaints from some consumers that the discount plans are marketed as health insurance, even though they require consumers to incur the full financial risk for a provider's charges, with the promise that the bill will be discounted. The regulations are intended to improve disclosure of what the plans actually do, and to provide a process for verification that the promised discounts are delivered.

- **Timely Access to Care.** AB 2179 (Chapter 797, Statutes of 2002, Cohn) requires that enrollees have access to needed health care services in a timely manner, and directs DMHC to adopt implementing regulations. The comment period for this regulation ended on February 23, 2009. Adoption of regulations has been delayed several times – most recently when the Office of Administrative Law (OAL) disapproved the last rulemaking action on March 3, 2008, indicating the DMHC had significant changes in the final language that required a new notice of rulemaking action. The proposed regulations would set some specific timelines for care – for example, non-urgent appointment for primary care should occur within ten business days of the request, as specified.

Possible Future Regulations: Additional issues have surfaced in recent times that may result in future regulatory action by DMHC:

- **Autism Spectrum Disorders.** The DMHC recently sent a letter to insurers indicating that state mental-health parity laws require plans to cover speech, physical, and occupational therapies for their autistic members. However, the DMHC excluded behavior therapies from the requirement. Future regulations may clarify and make specific the requirements of the mental health parity statute as applied to the diagnosis and treatment of Autism Spectrum Disorder.
- **Cancellation of Enrollment**. If a subscriber group fails to pay premiums, a health plan may cancel the contract retroactive to the first missed payment. This can cause a problem for a patient if an expense is incurred between the missed premium and notice of cancellation – because the patient may not be aware of the missed premium. Future regulations may clarify rights and responsibilities related to nonpayment of premiums and terminated coverage.
- **Post-Claims Underwriting.** Health plans require an applicant to submit a questionnaire regarding the applicant's health history. If a future medical visit or procedure reveals a mistake or omission on the questionnaire, the health plan may rescind the individual's coverage, even if the enrollee has already received a healthcare service. However, a plan is prohibited from engaging in post-claims underwriting (rescinding healthcare because an individual is consuming healthcare services). Future regulations may address consumer protection concerns by clarifying when a health plan can rescind coverage based on incomplete and inaccurate coverage applications.

Staff Comment: The DMHC should briefly walk the Subcommittee through the regulatory issues outlined in this agenda, and discuss the impacts on workload and future budgets.

Staff Recommendation: This is an informational issue – no action necessary.

Action: No action taken – informational issue.

Local Government Funding Items – Informational Issue

Background on Local Government Budget Items. Committee staff has received several public inquires since the 2009 Budget Act was approved on the affect of the budget on local governments. Local government is a partner with the State government in various areas and "local assistance" funding is a component of many departments' budgets. According to the Department of Finance, the total General Fund local assistance funding in the revised 2008-09 budget and in the adopted 2009 Budget Act is $69.1 billion and $74.9 billion respectively (out of the total General Fund budget of $94.1 billion and $92.2 billion respectively). While local funding is spread throughout the budget, there are four budget items where local assistance is specifically funded, and those items are under the purview of Subcommittee #4. They are as follows:

8885 Commission on State Mandates – this budget item funds reimbursement for local's costs of State mandates. Proposition 1A of 2004 amended the California Constitution to require that the State pay mandate costs in a timely manner (as implemented, local costs incurred in year 1 are compiled and submitted to the state in year 2 and then fully paid by the State in year 3). Prop 1A also requires that any pre-2004 mandate claims be fully repaid over time as defined by statute (current statute defines a 15-year repayment schedule and approximately $900 million is outstanding).

9100 Tax Relief – this budget item reimburses taxpayers for a specified portion of local property taxes they pay, and compensates local governments for local property tax lost to them through the Williamson Act. The Williamson Act program promotes open space through voluntary contracts with landowners to limit the use of their land to agricultural, scenic and open-space purposes, in exchange for reduced property tax.

9200 Local Government Financing – this budget item primarily funds various grants to local law enforcement agencies.

9350 Shared Revenues – this budget item funds various revenue transfers to local governments. The majority of this funding is transportation funding for local streets and roads: gas excise tax revenue; the local share of Proposition 42; and Prop 1B bond funds. The transportation funding components are generally considered along with the Department of Transportation budget.

Detail on the Adopted 2009 Budget Act. The budget package adopted in February, was a difficult package with: $12.5 billion in tax increases; $15.4 billion in spending-related savings; $5.3 billion in borrowing; and $8.5 billion in relief from the federal stimulus. The size of the budget gap required reductions in all subject areas, including local government. However, full funding was provided for many local government programs.

<u>Fully-funded programs or other positives for local government</u>:

- **No Proposition 1A suspension:** Proposition 1A, passed by voters in 2004 protects the city and county share of property tax revenue but does allow the

State to borrow these revenues during a year of "severe state fiscal hardship." The State did not exercise this authority and local government received full funding in this area. Included in the property tax protection is about $6 billion in Vehicle License Fee (VLF) backfills from the VLF rate cut earlier in the decade.

- **Full funding for local law enforcement grants:** The budget package increased the Vehicle License Fee rate by 0.15 percent to generate approximately $500 million annually to fully fund local law enforcement programs. These include Rural Sheriff grants, Citizens Option for Public Safety / Juvenile Justice (COPS/JJ) grants, and Booking Fee grants.
- **No Redevelopment (RDA) Agency Shifts:** Last year's budget included a $350 million one-time shift of redevelopment funds to education to reduce General Fund costs. The 2009 Budget Act did not include any RDA shift for General Fund relief.
- **Full Funding for Proposition 42:** Proposition 42, which directs most of the sales tax on gasoline to transportation was fully funded in the adopted budget. Forty percent, or about $590 million, of Prop 42 funds are directed to cities and counties for local streets and roads.
- **Full Funding for Homeowner's Property Tax Relief:** The California Constitution exempts the first $7,000 of assessed value on a principal residence from property tax and requires the State to reimburse local governments for this revenue loss. The budget includes $444 million to fully fund this local government payment.
- **Maintains Funding for the Williamson Act / Open Space Subventions.** The 2009 Budget Act includes about $35 million for Williamson Act payment to local governments.

<u>Reductions in local government funding</u>:

- **Defers payment of old mandate claims:** The 2009 Budget Act defers payment of $90 million in pre-2004 mandate claims to local government. This was also done in 2008-09 and is allowable under Proposition 1A. The budget fully pays current mandate claims.
- **Suspends other Property Tax Relief Programs:** The 2009 Budget Act includes the Governor's proposals to suspend various senior citizen property tax relief grant and deferral programs. Savings of approximately $200 million results.

(issue continues on next page)

Detail on local government payment deferrals. The budget package adopted in February also includes various payment deferrals that affect local governments and other service providers. These deferrals were necessary due to the State's cashflow problems, and do not produce any budget savings. The table below outlines the deferrals approved with the budget. Note, most deferrals are limited to one or two months and are therefore less onerous for local governments than some of the longer deferrals adopted last year or some longer deferrals considered for this year. The table indicates that $1.5 billion is deferred for the low cash month of March, with most repaid in April. Additionally, $4.0 billion is deferred in the low cash months of August and September, with deferrals fully repaid in October. Positive numbers on the chart denote deferred payment, and negative numbers denote payment of the deferred amount. The March/April numbers vary from what was anticipated when the budget package was adopted – most significantly the Medi-Cal Fee for Service was reduced from the $440 million planned to $110 million because the cash need was less. However, there is no indication that July – September deferrals could be similarly reduced.

Payment Deferrals in the February 2009 Budget Agreement (Dollars in Millions)

				2008-09 FY				2009-10 FY			
Org Code	Program	Final Payee	Deferral Amount	Feb	Mar	April	May	July	Aug	Sept	Oct
4260	Payments to Counties for County Admin Medi-Cal costs	Counties	$180		$180	-$180					
4260	Medi-Cal Managed Care payments	Medi-Cal Service Providers	$260		$260	-$260					
4260	Medi-Cal Fee For Services payments	Institutional Providers of Medi-Cal Services	$220		$110	-$110					
4300	Regional Centers - Delay Disbursements	Regional centers, community care facilities, service providers	$400					$200	$200	-$400	
4440	Delay Cash Advances to Counties	County mental health plans, EPSDT program service providers	$92					$92		-$92	
5180	County Assistance Payment (multiple issues)	Recipients	$548					$280	$268	-$548	
5180	County Administration Payment (multiple issues)	Recipients	$166					$83	$83	-$166	
5180	State Supplementary Payment	SSI/SSP recipients	$517	$258	$259	-$517					
6110	Defer July Apportionment	Schools	$2,500					$1,000	$1,500		-$2,500
6870	Defer July Apportionment	CCC Districts	$200					$200			-$200
8885	Commission on State Mandates: Post 2004-05 Mandates	Local Agencies	$142						$142		-$142
9650	Health & Dental Benefits for Annuitants.	Health Insurance	$194	$40	$97	-$137					
	Subtotal, Deferrals		$ 5,419	$ 298	$ 906	-	-	$ 1,855	$ 2,193	-	-
	Subtotal, Repayments			-	-	$ -1,204	-	-	-	$ -1,206	$ -2,842
	Cumulative Effect (General Fund)			**$ 298**	**$ 1,204**	**-**	**-**	**$ 1,855**	**$ 4,048**	**$ 2,842**	**-**
9350	HUTA transfer of excise tax revenues to counties and cities for local streets and roads	Cities and Counties	$300	$100	$100	$100	-$300				
3480	California Beverage Container Recycling Fund - Deferral of Grants and Other Set-Asides	Recycling Businesses	$204	$178	-$18	$13	-$21	-$5	-$160		
	Subtotal, Deferrals		$ 504	$ 278	$ 100	$ 113	-	-	-	-	-
	Subtotal, Repayments			-	$ -18	-	$ -321	$ -5	$ -160	-	-
	Cumulative Effect (Other Funds)			**$ 278**	**$ 360**	**$ 473**	**$ 152**	**$ 160**	**-**	**-**	**-**
	Cumulative Effect (All Funds)			**$ 576**	**$ 1,564**	**$ 473**	**$ 152**	**$ 2,015**	**$ 4,048**	**$ 2,842**	**-**

Staff Comment: The LAO and the Department of Finance are prepared to walk the Subcommittee through this informational item.

Staff Recommendation: This is an informational issue – no action needed.

Action: No action taken – informational issue.

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 $146.6 million ($143.6 million General Fund) and 12.0 positions. This is a $132.2 million ($131.0 million General Fund) increase from last year. However, the increase is primarily driven by a one-time cost savings measure in 2008-09, which discontinued the practice of paying *estimated* claims and established the process of the State only paying *final* claims. Like last year, the budget includes $75 million in General Fund savings from deferral of payment for old (pre-2004) mandate claims – about $900 million is outstanding, but can be repaid over time.

Issues Proposed for Discussion and Vote:

1. **Deletion of long-suspended mandates (Administration trailer bill language).** The Administration has proposed a trailer bill to modify language in many areas of code to delete mandates that are typically suspended each year. Generally, the proposed language would retain the activity in statute but change the activity from mandatory to optional. Under the existing process, the annual budget act includes provisional language in the Commission on State Mandates budget item to indicate what mandates are suspended. Suspending a mandate in the annual budget makes the activities optional for that budget year and saves the state the cost of reimbursement. In some cases, the local government continues to perform the suspended mandate activity because it is a local priority. A list of the mandates the Administration wants to eliminate is on the following page.

   Staff Comment: While many mandates have been suspended over multiple years, the Administration's proposal to makes these changes in a budget trailer bill would make significant changes in many different policy areas without a review by the responsible policy committees. A policy committee process may be the better route for the Administration to pursue. Additionally, the Legislature may prefer to have certain mandate requirements on the books, even if they are annually suspended in the budget act. This could be seen as a statement of legislative priorities and intent, even if annual suspension allows the Legislature to achieve cost savings when needed. The nature of mandates is that many locals would perform the activity if no State mandate existed, but because the activity is required, the State is required to fully fund the mandate activity.

Detail on affected mandates. The table below lists all of the mandates for which the Administration wants to amend statute. Any questions the Subcommittee has on individual mandates should be directed at the Department of Finance.

Mandate:	Code	Sections	First Suspended
Handicapped Voter Access Information (Chapter 494, Statute of 1979)/Partially Repealed-Made Optional	Elections	12280	1990
Deaf Teletype Equipment (Chapter 1032, Statute of 1980)	Government	23025	1990
Filipino Employee Surveys (Chapter 845, Statute of 1978)	Government	50087	1990
Adult Felony Restitution (Chapter 1123, Statute of 1977)	Penal	1203	1990
Pocket Masks (Chapter 1334, Statute of 1987)	Penal	13518.1	1990
Domestic Violence Information (Chapter 1609, Statute of 1984)	Penal	13701, 13710, 13730	1990
Local Coastal Plans (Chapter 1330, Statute of 1976)	Public Resources	30001	1993
Personal Alarm Devices (Section 3401 (c) of Title 8 of the California Code of Regulations)	Regulations	3401	1990
Structural and Wildland Firefighter Safety Clothing and Equipment (Section 3401 to 3410, Inclusive, of Title 8 of the California Code of Regulations)	Regulations	3401-3410	1990
Victims' Statements-Minors (Chapter 332, Statute of 1981)	Welfare & Institutions	656.2	1990
SIDS Autopsies (Chapter 955, Statute of 1989)	Government	27491.41	2003
Very High Fire Hazard Severity Zones (Chapter 1188, Statute of 1992)	Government	51178.5, 51179	2003
SIDS Training for Firefighters (Chapter 1111, Statute of 1989)	Health & Safety	1797.193	2003
SIDS Contacts by Local Health Officers (Chapter 268, Statute of 1991)	Health & Safety	123740	2003
Sex Crime Confidentiality (Chapter 502, Statute of 1992; Chapter 36, Statute of 1994, (First Extraordinary Session)	Penal	293	2003
Elder Abuse, Law Enforcement Training (Chapter 444, Statute of 1997)	Penal	13515	2003
Law Enforcement Sexual Harassment Training (Chapter 126, Statute of 1993)	Penal	13519.7	2003
Sex Offenders: Disclosure by Law Enforcement Officers (Chapters 908 and 909, Statute of 1996)	Penal	290.015, 290.016, 290.019	2003
Inmate AIDS Testing (Chapter 1579, Statute of 1988)	Penal	7510, 7512, 7515, 7516, 7518, 7520-7523, 7551, 7554	2003
Extended Commitment, Youth Authority (Chapter 267, Statute of 1998)	Welfare & Institutions	1800, 1801, 1801.5	2003
Prisoner Parental Rights (Chapter 820, Statute of 1991)	Penal	2625	2005
Missing Persons Report (Chapter 1456, Statute of 1988; Chapter 59, Statute of 1993)	Penal	14205-14207, 14210, 14213	2005
Grand Jury Proceedings (Chapter 1170, Statute of 1996, et al.)	Penal	914, 933, 933.05, 938.4	2005
Airport Land Use Commission Plan (Chapter 644, Statute of 1994)	Public Utilities	21670, 21670.1	2005

Staff Recommendation: Reject the Administration's proposal (reject budget trailer bill language and make conforming changes in the budget bill). Rejection of the proposal would be without prejudice to the Administration pursuing changes in individual mandate laws through policy bills.

Action: Rejected proposal on a 3-0 vote. Rejection of the proposal includes rejection of proposed trailer bill language and amendments to the budget bill to restore the mandate suspensions using the longstanding methodology.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, April 23, 2009
9:30 a.m. or Upon Adjournment
Room 112

"B" Agenda

Hearing Outcomes

Item Number and Title **Page**

Discussion Items

Appendix

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.

2240 Department of Housing and Community Development

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

The Governor proposes $803.3 million ($9.4 million General Fund—GF) and 595.3 positions for the department—a decrease of $340 million (30 percent) and an increase of 1.5 positions.

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $548 million (excluding administrative costs) in funding from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C)—a decrease of approximately $180 million from 2008-09 due to the pending exhaustion of the bond funds. The HCD also continues to transfer positions funded from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) to Prop 1C activities as all remaining funds available under Prop 46 are projected to be awarded by the end of the current fiscal year.

The second largest revenue source is federal funds, estimated at $178 million in 2009-10, which is about $139 million less than 2008-09, when California received $140 million for the Neighborhood Stabilization Program under the American Housing Rescue and Foreclosure Prevention Act of 2008 (HR 3221). Remaining expenditures of about $77 million are covered by the GF ($9.4 million), fees, and other miscellaneous revenues.

DISCUSSION ITEMS:

1. Informational Item: Emergency Housing Assistance Program. The Emergency Housing Assistance Program (EHAP) provides facility operating grants for emergency shelters, transitional housing projects, and supportive services for homeless individuals and families. Historically, the state contributed approximately 10 percent of overall funding for local homeless shelters, or the equivalent of approximately 19,000 beds according to the HCD.

2009-10 Enacted Budget. Contains zero EHAP funding.

Staff Comments. Last year, the Governor proposed a 10-percent budget-balancing reduction (BBR) of $401,000 GF—a reduction in state local assistance eqivalent to 1,900 beds. The Legislature chose to restore that cut through the budget process; however, the Governor vetoed the restoration as well as the remaining $3.6 million in EHAP funding (effectively defunding approximately 19,000 beds for the homeless). As noted above, the enacted 2009-10 budget contains zero EHAP funding.

Staff notes that the Governor supported his veto of EHAP funding with the same boilerplate language that accompanied all of his 2008-09 Budget Act vetoes (see Text Box 1), and according to Department of Finance (DOF) staff no formal analysis was performed to determine what costs (i.e., negative externalities), if any, might be associated with the EHAP reduction.

Text Box 1

Governor's EHAP Veto Message

While the budget bill provides for a modest reserve in 2008-09, it fails to make the necessary statutory spending reductions and revenue increases needed to eliminate the state's structural budget deficit going forward. At the same time, constitutional requirements, federal law and court required payments drive the majority of the spending in any budget, and limit my ability to reduce spending. As a result, I have an obligation to reduce spending when my veto power is adequate to do so. Consequently -- and in order to further ensure that this budget remains in balance -- I am taking the difficult but necessary action reflected in this veto to further control state spending.

According to at least one survey of former recipients of EHAP funding, the costs of cutting shelter funding are not insignficant. Housing California, an advocate for increasing the supply and variety of decent, safe, and affordable homes for homeless and low income families, estimates the following based on survey responses from 64 of the 113 shelters throughout the state who received EHAP funding in the last round:

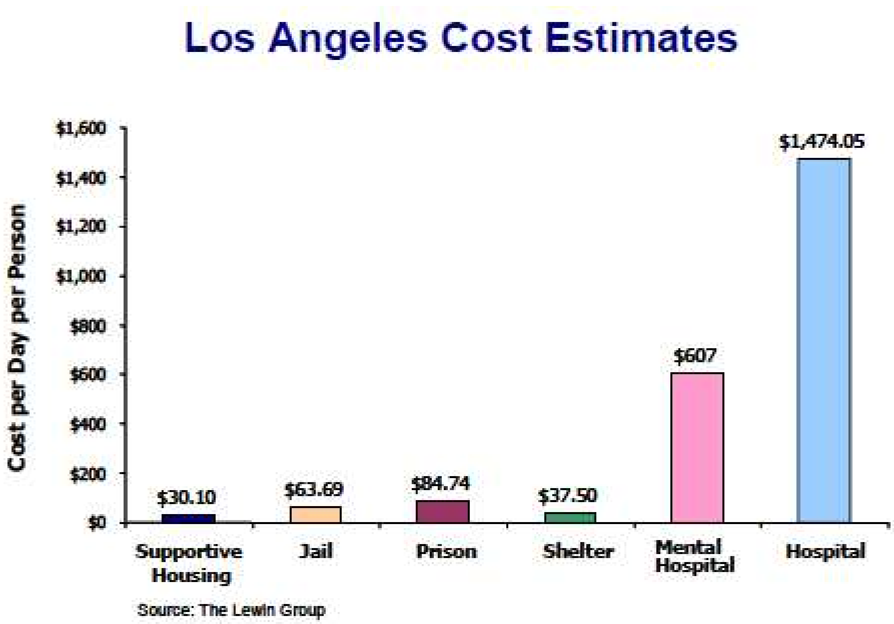
- Conservative estimates show that more than 25,000 fewer people will be able to access emergency shelter services. These numbers include hundreds of families and thousands of children.
- 58 percent of recipients report the necessity to lay off staff, resulting in further job losses and increased demand for unemployment benefits.
- California stands to lose millions more in federal funding, as EHAP money was used by many as a match for federal resources. In each instance, the loss of one $30,000 EHAP grant can result in the loss of hundreds of thousands in federal dollars for that organization.
- Rural areas are being particularly hard hit, as the EHAP grants received by rural counties generally account for larger portions of their emergency shelter budgets.
- Winter shelters are likely to be forced to close their doors early or not open at all.
- Nearly 20 percent of shelters will be forced to close a program and two shelters report they may have to close permanently.
- In attempts to fill operating-revenue gaps, emergency shelters are growing more dependent on less-reliable funding streams, such as private donations and local government funds (both of which are already tapped to the brink).
- All areas of the state are affected -- at least one shelter in every county lost funding.

In a recent opinion piece entitled "Cuts in homeless funds shortsighted" (see Appendix A for full text), the Sacramento Bee editorial board followed up the Bee's recent coverage of the Governor and Sacramento Mayor Kevin Johnson's response to the American River homeless encampment (which has drawn national attention due to its swelling numbers) by raising questions about the wisom of the Governor's EHAP veto and his leadership (or lack thereof) on California's growing homelessness crisis. While quoting homeless advocates chastened by the notion of the Governor building a "rainy day fund" when the growing numbers of homeless were already facing "a torrential downpour," the Bee urged action:

> *The Governor should make this issue [homelessness] a priority, not just by showing up at homeless encampments but by doing the hard work of coordination and planning.*

Staff notes that California has no statewide homeless data management system, but, according to the Corporation for Supportive Housing, a nationwide organization with over 25 years invested in reducing homelessness, prior to the economic crisis, California faced the largest homeless population and the largest ratio of homeless people per resident in the nation (approximately 360,000 on any given night). While an updated estimate will likely not be available until early summer 2009, nearly all anecdotal evidence suggests that homelessness is on the rise in California. For example, the Sacramento-based St. John's Shelter Program reported turning away approximately 20 women and children shelter-seekers per day prior to the economic crisis. That number has since risen to approximately 300 as the number of families suffering from rising unemployment and home foreclosures has continued to surge.

While the programmatic costs of providing certain direct services to the homeless (e.g., EHAP) are easy to measure, the true economic and budgetary cost of homelessness (and the costs avoided when homeless individuals received services) are more difficult to measure. However, various studies exist which strongly suggest the costs of services, like homeless shelters are signficantly less than the alternative services that are frequently engaged when people are forced to live on the street (e.g., jail, prison, hospitals, or mental hospitals). In compiling a 2004 study commissioned by The Corporation for Supportive Housing, the Lewin Group looked at urban areas across the country, including Los Angeles and San Francisco, and compiled the following estimates of the daily costs for various services:



As indicated by the graph above, the cost of only one day in the hospital in San Francisco is equivalent to nearly 2 ½ months worth of shelter services. Thus, when shelter beds or supportive housing are unavailable and the needs of the homeless have to be met in other ways, the cost center shifts. Instead of taxpayers supporting programs like EHAP through the GF, the same taxpayers frequently wind up footing a larger bill (whether through taxes or "hidden" taxes like increased healthcare premiums) for more expensive programs like jails and emergency rooms. Ironically, the same type of cost-shifting in the healthcare industry was highlighted by Governor Schwarzenegger as a key argument in support of his healthcare reform plan last year.

As discussed in more detail below in agenda item #6, California is set to receive federal stimulus funding targeted at homelessness, but staff notes that the lion's share of this funding is geared toward *preventing* homelessness and rapidly responding to the needs of those on the brink. However, none of the federal funding will be directly available to backfill for lost EHAP funding and HCD and DOF staff indicate that they are unaware of any other plans by the Administration to address the homeless issue.

In light of this, and as an ad hoc solution to a problem requiring a far larger and coordinated effort, the Committee may wish to explore the option of shifting GF from elsewhere in the HCD budget to re-establish some minimal level of EHAP funding (or support for other priority programs—see also the Employee Housing Program discussed in agenda item #2). For example, the state currently provides approximately $530,000 to support about half of the cost to issue vouchers in the HCD Enterprise Zone (EZ) program. Statute authorizes the HCD to charge a nominal $10 fee to support the other half of the program costs. Given the large size of the potential tax benefit represeneted by each EZ voucher (up to $37,500), the Committee may wish to consider increasing the fee to $20 in order to free up roughly half a million dollars in GF currently committed to the EZ program.

Committee Questions. Based on the above comments, the Committee may wish the Administration to respond to the following questions.

- This Committee was critical last year of the Governor's failure to set clear priorities in his proposed GF cuts. Did the Administration attempt to weigh the economic and/or budgetary costs of cutting EHAP funding prior to the Governor's veto last year?
- What is the current homeless rate and what is the Administration doing to address what appears to be a rising tide of homelessness in California?
- What are the pros and cons of increasing the $10 EZ fee to $20 in order to free up GF for other priorities?

Staff Recommendation: NO ACTION recommended at this time. Await the May Revise and additional information from the Administration in order to best weigh whether an increased EZ fee best meets the priorities of the Legislature.

No Action.

2. BCP-5: Employee Housing Program. The Governor requests a suspension of the HCD's responsibilities under the Employee Housing Act by eliminating all remaining funding ($231,000 in reimbursements supported by fee revenue) and positions (9). Additionally, the Administration proposes trailer bill language (TBL) to suspend the HCD's administrative and enforcement responsibilities when, in any given year, the department is not funded for the responsibility.

Background. In 1913, the Legislature created the Commission of Immigration and Housing for the primary purpose of expediting the distribution of immigrants and blending them into California's society. Following a riot in an agricultural camp, the Commission discovered substandard living conditions and inadequate housing, and recommended adoption of laws that provided for additional housing and established sanitation requirements for labor camps. In 1915, the Commission's recommendations became the Labor Camp Act, which was the law of the land until it was updated and replaced by the Employee Housing Act (Act) in 1965. The new Act transferred enforcement responsibility to the HCD and additionally regulated maintenance, use, and occupancy of mobilehomes in labor camps, authorizing adoption of regulations, and required permanent buildings to comply with the State Housing Law.

The modern Act continues to be enforced by the HCD, which assures the health, safety, and general welfare of employee housing occupants by adopting and enforcing statewide regulations for the construction, maintenance, use, and occupancy of privately owned and operated employee housing facilities providing housing for five or more employees. Department staff oversee the application of state laws, regulations and code enforcement by local agencies who elect to enforce the provisions of the Act (currently, only 10 counties—see more below), and acts as the enforcement agency when locals opt not to perform the duty themselves.

2009-10 Enacted Budget. Restored the $231,000 reimbursement authority deleted in the Governor's Budget and did not implement the Governor's requested statutory changes.

Staff Comments. Last year the Governor proposed a 10-percent budget balancing reduction of $85,000 GF for the Employee Housing Program, to be achieved through a reduction in investigation staff (2/3 of a position). While the Legislature recognized the need to achieve GF savings in order to address the state's fiscal crisis, it also expressed concern that investigation levels were already inadequate and further reductions would only exacerbate the problem and lead to a decline in housing conditions. Therefore, the budget conference committee adopted provisional language authorizing the HCD to adopt emergency regulations to increase fees charged to housing owners (employers) by the amount necessary to backfill the $85,000 GF reduction. Based on fees that ranged from $12 to $35 (and that had not been adjusted in over two decades), the HCD estimated a 36 percent increase was necessary to achieve the level of revenue necessary to keep the program "whole."

In signing the budget, however, the Governor vetoed not only the provisional language authorizing the increased fees, but completely eliminated all remaining GF support for the program—an additional reduction of $761,000. The Governor's action left only $231,000 (reimbursement authority), supported by the fees, to fund the oversight of approximately 20,000 beds in 765 permitted facilities (see the table below).

Housing and Community Development Employee Housing Program Number of Employee Housing Units - Statewide Calendar year								
	2007	***2006***	***2005***	***2004***	***2003***	***2002***	***2001***	***2000***
Number of beds/lots	*19,621*	*18,991*	*18,802*	*20,594*	*22,979*	*23,117*	*23,652*	*12,500*
Number of Permits to Operate	*765*	*775*	*761*	*810*	*837*	*1,114*	*1,077*	*694*

Data from the Employee Housing Statistical report

Staff notes that even before last year's proposed BBR and the ultimate veto of all GF support, the Emergency Housing Program was not resourced to conduct annual inspections of all employee housing. Under existing law, the HCD is required to inspect all employee housing facilities unless the prior year inspection revealed no violations or complaints received, and, based on these requirements and limited resources, the HCD typically inspected approximately 75 percent of permitted facilities (for example, the HCD conducted 330 inspections in 2006 and found 148 violations). The Administration notes that with the elimination of roughly $850,000 in 2008-09, the remaining $231,000 proposed for reduction in 2009-10 would allow the HCD to conduct inspections on no more than an emergency basis and is therefore insufficient to support a credible state program. The Administration contends that the state should not charge employer-landlords a fee for such a low level of service.

As an alternative, the Governor proposes TBL to relieve the state of responsibility for the Employee Housing Program in any year when funding is not provided, with the expectation that local governments will take over all responsibility for inspections under existing statutory authority. The Administration bolsters its argument by pointing out that counties are currently authorized to charge higher fees than the HCD for providing inspection services. However, staff notes that only 10 counties currently carry out their own inspections (Kern, Merced, Monterey, Napa, Sacramento, San Joaquin, San Mateo, Santa Cruz, Stanislaus, and Tulare), and these do not typically opt to charge higher fees. Five counties charge the same per-employee fee as the state ($12), with the highest fee at $20. Meanwhile, four counties charge the same permit-to-operate fee as the state ($36), three are under $50, and only Monterey ($77), Tulare ($200) and Santa Cruz ($362) are significantly above the HCD fee level. Additionally, staff notes that, to date, the HCD reports no counties have indicated a willingness or interest in assuming responsibility for Employee Housing Program enforcement.

LAO Comment. The LAO offers several alternatives to the Governor's proposed elimination of state oversight of the employee housing program. These alternatives include requiring local governments to accept resonsibility for employee housing enforcement, increasing permit fees to cover the full cost of the program, and/or scaling down the inspection program.

- ***Require locals to enforce employee housing requirements.*** The Governor's proposal does not require locals to take over the inspection program. The LAO points out that local governments currently have the option of providing these services, and most do not. So there is little reason to believe it is a task they wish to take on. One option would be to *require* local governments to enforce employee housing requirements. They already have the fee authority to do so, so it *would not be a reimbursable state mandate*. This is the LAO's recommendation.

- ***Increase fees.*** Another option is to increase permit fees, but according to the HCD it would require an increase to the average employer fee of approximately $2,000 per facility in order to maintain 2007-08 funding levels. The problem with raising fees significantly is the risk of employers choosing to stop providing housing for their employees altogether. Staff notes that the HCD has existing authority to increase fees but has not done so.

- ***Further prioritize inspections.*** The final option is to scale down the number of inspections conducted each year. The HCD estimates that it conducted inspections at about 75 percent of all facilities based on existing law in 2007-08. Statute could be changed, however, to allow HCD and/or locals to focus on those facilities with more complaints or the worst conditions. This could significantly reduce the number of inspections required, and thus reduce the fee increase necessary to maintain those levels of service. More detail would be required from the HCD to determine the best way to set these priorities.

Committee Questions. Based on the comments above, the Committee may wish to ask the following questions:

- What evidence does the Administration have to suggest that local governments (who are also fiscally challenged at the moment) intend to step forward and take over employee housing oversight responsibilities?
- What are the potential consequences if the Governor’s proposal goes forward and the locals do not fill the void? For example, what kinds of violations has the

HCD identified in the past (that might go unidentified and unaddressed if the number of employee housing inspections declines further under the Governor's proposal)?

- In arriving at the Governor's preferred option for this program, did the Administration consider any "blended" approaches (of reduced inspections and increased fees) like those suggested for consideration by the LAO? If so, what were they and in what ways were they found lacking?
- The Administration does not believe the level of oversight provided by $231,000 justifies charging landlords a fee. In the view of the HCD, what level of inspections *would* constitutue a credible state program (and therefore justify charging the fee)? For example, is the current level of approximately 75 percent of facilities inspected the low-end threshold in terms of credibility, or would 50 percent still be reasonable if the 50 percent ensured inspection of most or all of the "bad actors" (past violators)?
- What is the relative ability of employers to pay an increased fee (even if it is several hundred dollars more)? For example, if the employers are generally larger, "factory" farms, then a several-hundred dollar fee increase might be deminimus compared to their revenues.

Staff Recommendation: HOLD OPEN pending additional information from the Administration on the comments and questions above.

Action: Held Open.

3. Informational Item: Office of Migrant Services (OMS) Update. The purpose of the OMS program is to provide safe, decent, and affordable seasonal rental housing and support services for migrant farmworker families during the peak harvest season. As displayed in the table below, the GF provides two-thirds of the funding for the 24 facilities operated by the state, and tenant rent pays the rest.

OMS FUNDING
Dollars in millions

	2004-05	2005-06	2006-07*	2007-08	2008-09	2009-10
GF	5.3	5.3	8.7	6.3	6.0	5.6
FF	0.6	0.5	0.6	-	1.8	1.8
Rents	3.1	3.0	2.9	3.0	3.2	3.5
Totals	9.0	8.8	12.2	9.3	11.0	10.9

* Includes a one-time augmentation of $2.4 in the General Fund

2009-10 Enacted Budget. Sustained the Governor's 2008-09 veto (equivalent to a 10-percent reduction – $687,000 GF).

Background. Last year, as part of his 10-percent, across-the-board reductions, the Governor targeted the OMS program for a fiscal year 2008-09 reduction of $343,000 GF (with a full-year value of $687,000 ongoing). So as to create the least disruption to the program, the HCD proposed to achieve the GF savings by increasing rents by $2 per-day (over two years) and relinquishing operational control over the Firebaugh OMS center in Fresno County.

Firebaugh is unique in that the local housing authority owns both the land and the building (in all other cases the state owns the building), and, therefore, the Administration proposed defunding the centers' operations because the state would not incur closure costs (e.g. demolition). The HCD noted that this plan boasted at least two additional benefits:

1. Firebaugh could remain open because the HCD believed the local housing authority would gain permission from United State Department of Agriculture Rural Development Office (USDA-RD) to fund operations out of its reserves.

2. Combined with the $500,000 in additional revenue generated by phasing-in a $2 per-day rent increase over two fiscal years (beginning July 2008), ending state support of Firebaugh (approximately $200,000 annually) would avoid closing at least two centers that it would otherwise be necessary to shutter in order to achieve commensurate savings.

Notwithstanding the merits of this plan, the Legislature rejected the Governor's 2008-09 reduction because it did not wish to risk losing housing critical to California's farmworkers (and, by extension, the employers who count on their labor). However, as noted above, the Governor vetoed the $343,000 and built the ongoing $687,000 reduction into his 2009-10 budget.

Staff Comments. According to the Housing Authority of the City and County of Fresno (the Fresno Authority), the use of USDA-RD Replacement Reserve funds for operations provides only a short-term fix to the Governor's defunding of the Firebaugh OMS center. The existing reserve balance of approximately $319,000 will be exhausted in a little more than a year's time (fiscal year 2010-11), and after that the Fresno Authority will face some difficult decisions about the Firebaugh OMS center. The Fresno Authority provided the following in response to staff questions about the impact of the Governor's 2008-09 OMS veto on the Firebaugh center:

1. *Impact on operations: We have continued to operate the facility based on the rents collected. For the 2008 season, the rents totaled $183,259. During the off-season, RD Replacement Reserve funds are used to maintain the facility. However, the future viability of the center is in question. We have a balance of $318,745 in Replacement Reserve funds, and eventually that will be expended. To remain viable, we will need to consider alternatives such as H2A workers, contracting with a local labor contractor or admitting single workers, as well as using the center year-round to be viable. There may be additional costs to retrofit the apartments for year-round use. The HCD administers the Joe Serna Farmworker Housing Grant Program and USDA-RD may be another source of construction/rehabilitation funding. Single worker use and year-round operation may eliminate housing for migrant farmworker families. Lastly, the RD grant lien restricts the property to use for agricultural workers.*

2. *Lessons Learned: As the Administration contemplates the possibility of turning over more OMS centers to the local jurisdictions to administer,*

consideration must be made in ensuring the sustainability of this affordable housing for the migrant farmworker families. Due to the seasonal nature of the work, the migrant farmworker families are not in a position to enter into conventional lease agreements for rental housing that comes with a standard 12-month commitment, and motel living is not a cost-effective option for them. As previously stated, single workers and year-round operation may eliminate housing for migrant farmworker families. With an increase in school enrollment during the season, these families provide a source of revenue for the local schools that their children attend. Housing single workers will have a serious negative impact on the schools.

As noted above, the OMS centers are absolutately reliant upon GF under the current funding model because (even with the planned $2/day increase) rents are kept well below market value. Thus, as the Fresno Authority indicates, the Firebaugh center will need to consider fundamental changes to its mode of operations absent a restoration of GF or identification of an alternative funding source. As pressure on the state's GF continues to mount amid the ongoing fiscal crisis, the Administration has begun to talk of turning over more OMS centers to local agencies, meaning that the issues facing Fresno County (outlined above) could soon be confronting counties up and down the state.

Committee Questions. Based on the comments above, the Committee may wish to ask the following questions:

- How does the Administration respond to some of the problems/trade-offs highlighted by the Fresno Authority (e.g., the loss of migrant farmworker housing for families if finances force locals to convert OMS centers to single-worker or year-round operation)?
- What is the Administration's long-term plan for the OMS Program? For example, how many additional centers could be turned over to locals and how many migrant farmworker families would be affected?
- What does the agricultural industry have to say about the OMS reductions, and has the Administration discussed the issue of creating an alternative fund source (perhaps in cooperation with the industry)?

Staff Recommendation: NO ACTION recommended at this time. Await additional information from the Administration on the comments and questions above.

No Action.

4. BCP-7: Codes and Standards Fee Increase – Mobilehome Parks. The Governor proposes the following changes to the HCD's Codes and Standards Program (including TBL) in order to address a steady decline in revenues from several sources over the past several years:

- Increase the registration fee for manufactured housing, mobilehomes, and commercial modulars from $11 to $23;
- Increase the permit-to-operate fee for mobilehome parks from $25 to $140;
- Increase the per-lot fee in mobilehome parks from $2 to $7;

- Provide a $2.1 million loan from the Mobilehome Park Purchase Fund (Purchase Fund) to the Mobilehome-Manufactured Home Revolving Fund (Mobilehome Fund);
- Reduce programs supported by the Mobilehome Fund by $4.1 million and 18.6 positions;
- Reduce programs supported by the Mobilehome Park Revolving Fund (Park Fund) by $122,000 and 3.4 positions.

Background. The Mobilehome and Park funds support the HCD's efforts to protect the health, safety, and consumer rights of Californian's who live in mobilhome parks or who buy, sell, or occupy factory-built housing, manufactured housing, or mobilehomes. For example, the HCD enforces the Mobilehome Parks Act (MPA) and adopts state regulations for construction, use, maintenance, and occupancy of mobilehomes (now more commonly known as "manufactured housing"). Department personnel periodically inspect parks, issue annual permits to operate, construct, expand, or alter parks, and investigate complaints and violations of the MPA. Similarly, the HCD maintains and enforces regulations for factory-built housing to ensure that concealed parts or processes of buildings and building components that cannot be inspected before installation meet certain health and safety standards. Additionally, the HCD ensures that dealers in the above housing products are reputable and that all such products are properly titled and licensed.

2009-10 Enacted Budget. Included the proposed expenditure adjustments, but not the TBL adjusting fee levels.

Staff Comments. According to the Administration, the current misalignment of revenues and expenditures in the Mobilehome and Park funds is explained by two primary factors:

(1) A structural gap between expenditures and revenues that emerged over the last few years as a fee structure—that is over 70 years old in some instances—failed to produce adequate revenue to maintain service levels in the face of rising costs (e.g., gas for inspectors in the field).

(2) A recession that resulted in a sudden 20 percent drop in fee-for-service revenues as fewer homes were built, sold, installed, transferred, remodeled, and repaired. Meanwhile, as home and park owners continue to invest less in maintenance, the HCD has experienced a rise in complaints (a workload whose redress does not generate additional revenue for the department). For example, in 2007 alone, the number of complaint inspections doubled.

In order to address a structural deficit that would otherwise see the Mobilehome and Park funds "in the red" before the end of the current fiscal year, the Administration has proposed a multi-prong solution of increased revenues and decreased expenditures, combined with short-term loans from other funds to smooth out the 2009-10 fiscal year since the fee increases would not take effect until mid-year.

<u>Reductions</u>

The proposal calls for a total reduction of 22 positions. According to the HCD, these cuts will result in reduced training and monitoring of local jurisdictions for compliance with statutes and regulations, fewer updates of local jurisdictions as program or code changes are implemented, delayed response to incorrect local interpretation and/or implementation of building standards, and fewer inspections of manufacturers and dealers of manufactured housing. However, the HCD believes this proposal would still provide the resources necessary to maintain adequate baseline services for its constituents.

Staff notes that it is unclear what material difference these reduced service levels would make in terms of the health and safety of California's citizenry. Although the Administration expects the proposed decrease is only temporary (until the economy recovers and fee-for-service revenues can support more robust state operations again), the Committee may wish the HCD to further clarify the anticipated impact of the service reductions, and explain why the Administration did not simply propose a marginally higher fee increase. For example, the HCD notes that 53 inspectors are currently responsible for enforcement at 4,112 mobilehome parks, containing 321,056 spaces, statewide; however, the Governor's proposal would eliminate 6 of these inspectors. The proposed reduction will mean that the remaining inspectors are spread that much more thinly across California's vast tracts, and the HCD should clarify what this will mean in terms of quantifiable performance metrics.

<u>Fee Increases</u>
The proposal calls for an increase in three fees:

(1) Increase the registration fee for manufactured housing, mobilehomes, and commercial modulars from $11 to $23. Unlike the Department of Motor Vehicles initial base registration and annual renewal fees (which increased from $11 to $31 since 1967), this fee has not increased since 1967.
(2) Increase the permit-to-operate fee for mobilehome parks from $25 to $140. Other than fees for service, this is the key source of revenue for the Mobilehome Parks Program and has not been adjusted since 1965 (although it was originally set at $25 in 1931 and then briefly lowered from 1961 to 1965 as a per-lot fee was instituted).
(3) Increase the per-lot fee in mobilehome parks from $2 to $7. The current level was set in 1973.

Staff notes that, as displayed in Figure 1 below, the proposed fee levels are lower, and in the case of the registration fee, significantly lower, than the current fees adjusted by the Consumer Price Index (CPI).

Figure 1

Fee	Last Adjusted	Current	CPI Adjusted	Proposed
Registration	1967	$11	$70	$23
Permit-to-Operate (Mobilehome Park)	1965*	$25	$168	$140
Per-Lot (Mobilehome Park)	1973	$2	$10	$7

*If CPI adjusted for its 1931 buying-power (when it was originally set), the permit-to-operate fee would be $349 today.

The Committee may wish the Administration to explain its rationale for the proposed fee levels, particularly as they compare to the CPI adjusted levels, and to explain why the proposed TBL does not include automatic indexing so that fee levels do not stagnate, leaving the associated programs under-resourced again in the near future. Additionally, staff notes that, in evaluating the near-term solvency of the Mobilehome and Park funds, the Administration assumes revenues will begin increasing again by 5 percent annually beginning in 2010-11; however, this may be overly optimistic. Given the relatively conservative approach the Administration has taken to raising fees (relative to the higher levels suggested by the CPI), the Committee may wish to inquire as to why a similarly circumspect approach was not taken with regard to out-year revenue estimates (e.g., a zero or negative growth assumption over the next several years would not seem unreasonable given the current state of the economy).

<u>Loans</u>
Because the proposed fee increases likely cannot be implemented until January 2010, in order to avoid devastating cuts to the program, loans (from other HCD special funds) are necessary as a “bridge” during the first half of the 2009-10 fiscal year. Based on the Administration’s projections, these loans would be fully repaid by 2012-13; however, as noted above, this projection relies on revenue estimates that may be overly optimistic.

The solution also includes a “one-time acceleration of revenues due to an accounting change." Funds paid to HCD that require time to process, investigate, or review prior to clearing are placed in the “Uncleared Collections Account." When the investigation clears the funds or when funds are processed, they are either returned, or deposited in the appropriate fund. For all funds in the Uncleared Collections Account at present, those funds will be counted toward the Mobilehome Fund at one time for approximately $2 million in funding for 2008-09. In the future, however, all funds will be accounted for in the fiscal year they are cleared.

Committee Questions. Based on the comments above, the Committee may wish to ask the following questions:

- How will the proposed staffing reductions affect the health and safety of Californians (particularly with fewer inspectors available)? Please provide some examples of workload the HCD is currently unable to address. Is there a backlog? If so, will it grow under the proposed reductions, and what are the projections for the near-term?
- How did the Administration arrive at the fee levels proposed (as opposed to, for example, the CPI-adjusted levels indicated in the staff comments)? What are the pros and cons of raising fees to the levels suggested by the CPI? Why not permanently index the fees and/or allow the HCD to set all fees through regulation (i.e., eliminate statute governing registration, permit-to-operate, and per-lot fees)?
- What is the Administration’s justification for assuming revenue growth of 5 percent annually in the out-years? Does not this seem overly optimistic given the state’s current economic condition?

Staff Recommendation: HOLD OPEN pending additional information from the Administration on the comments and questions above.

Action: Held Open.

5. FL-2: Reappropriation of Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C) Local Assistance and Extension of Liquidation Period. The HCD requests a reappropriation of up to $335 million of any unencumbered balance in local assistance funding in the 2008 Budget Act for the Infill Incentive Grant Program (Infill), Transit-Oriented Development Program (TOD), and the Building Equity and Growth in Neighborhoods Program (BEGIN). Consistent with the original appropriations, the HCD requests the reappropriations contain provisional language providing for a five-year liquidation period.

Background. Prop 1C provided for a general obligation bond issuance not to exceed $2.85 billion. The Governor's Budget proposed to award $548 million in Prop 1C revenues in 2009-10, on top of the $728 million estimated to be expended in the current fiscal year and the $973 million awarded in FY 2006-07; however, as noted below, delays caused by the economic downturn and the state's deteriorating fiscal condition have slowed projected expenditures. The table below is a point-in-time estimate of Prop 1C expenditures by category for all HCD-administered programs. Each expenditure is identified as continuously appropriated or requiring a Budget Act appropriation, and dollars are in thousands and exclude administrative costs which have consistently averaged less than five percent of all program expenditures.

Proposition 1C Category	Anticipated 2008-09 Award Schedule	Projects with Commitments Prior to 12/17/2008	Projects Pending Commitments	Original Proposed 2009-10 Allocations	Approp Type
CalHome	$106,000	$75,000	$31,000	$50,000	Continuous
CA Homeownership Program (BEGIN)	40,000	11,000	29,000	40,000	Budget Act
Self-Help Housing Program	3,000	2,000	1,000	3,000	Continuous
Affordable Housing Innovation Fund	34,000	-	16,000	61,000	Budget Act
General	120,000	18,000	67,000	-	Continuous
Supportive Housing	50,000	20,000	30,000	83,000	Continuous
Homeless Youths	20,000	1,000	19,000	19,000	Continuous
Serna Farmworker Loans/Grants	40,000	10,000	10,000	31,000	Continuous
Emergency Housing Assistance	20,000	-	20,000	27,000	Continuous
Infill Incentive Grants	200,000	-	200,000	190,000	Budget Act
Transit Oriented Development	95,000	-	95,000	34,000	Budget Act
Housing Urban-Suburban and Rural Parks	0	-	200,000	10,000	Budget Act
TOTAL	**$728,000**	**$137,000**	**$518,000**		

Regarding the above, the HCD notes the following:

> *Of the $728 million awards anticipated for 2008-09, $137 million in commitments were processed prior to December 17, 2008. While program readiness and HCD's ability to process is on schedule, $518 million cannot be committed due to*

the constraint imposed by BL 09-09 [the PMIB freeze discussed below]*; $73 million will be deferred to budget year. With the exception of TOD, Infill, and BEGIN, all funds are continuously appropriated, therefore, HCD will not have an authority issue if these awards are postponed. For TOD, Infill, and BEGIN, we have submitted 2009-10 Finance Letter #1 that requests a reappropriation of any unobligated funds from the 2008-09 to 2009-10.*

Staff Comments. According to the Administration, this request is necessary due to the delays caused by the Pooled Money Investment Board's (PMIB) December 17, 2008, decision to freeze all disbursements of AB 55 loans. The PMIB took the action to preserve necessary cash resources to pay for the day-to-day operational needs of the state. Although the PMIB released $500 million in PMIB loans subsequent to the successful bond sale of March 25, 2009, the $148.6 million released to the HCD ($83.3 million for Proposition 46 and $65.3 million for Prop 1C) does not ensure that the HCD will have ample funds available to fulfill the award levels contemplated in the original appropriations. Therefore, staff has no concerns with this proposal at this time.

Staff Recommendation: APPROVE the request.

VOTE:

Action: Approved the request on a 3–0 vote (Harman absent).

6. FL-1: American Recovery and Reinvestment Act of 2009 (ARRA). The HCD estimates the state may be eligible to receive various ARRA funding on a one-time basis only, and requests an augmentation in federal expenditure authority of $129 million in local assistance for fiscal year 2009-10. The funding would be allocated as follows:

- Community Development Block Grant (CDBG) $10.7 million
- Homeless Prevention and Rapid Re-Housing Program (HPRP) via the Federal Emergency Shelter Grant (FESG) $44.5 million
- Neighborhood Stabilization Program (NSP) $74.0 million

The HCD notes that California will have to compete for NSP funding; therefore, the $74 million is an estimate only.

Background. The CDBG and NSP are existing programs. The FESG is an existing program; however, as discussed below, there are important differences between the FESG program and the new HPRP program. The HCD indicates the requested augmentations would be administered under the existing United State Department of Housing and Urban Development (HUD) guidelines and criteria. The program descriptions are as follows:

- **CDBG** – 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.

- **FESG** – Through the FESG, the HCD funds emergency shelter providers throughout the state who do not receive shelter funds directly from HUD. Eligible activities include facility maintenance, operating costs, and rent; essential services such as transportation, life skills, legal aid, and counseling; used to move the homeless into permanent housing; and transition to independent living. Renovation and Rehabilitation funds are also available.
- **NSP** – The Housing and Economic Recovery Act of 2008 (HERA) authorized $3.9 billion nationwide in funds to state and local governments to purchase abandoned and foreclosed homes and residential property. California received $529.6 million, with most of it provided directly to cities and counties, and $146 million allocated to the state program, to be allocated by the HCD. The funds can be used to:
    - Purchase and rehabilitate homes to sell, rent or redevelop
    - Create land banks for homes that have been foreclosed upon
    - Demolish blighted structures
    - Redevelop demolished or vacant properties
    - Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties

  Homes that are purchased with the NSP funds must be sold or rented to low or moderate income families.

  ARRA provides $2 billion for a national competitive NSP program rather than a formula-based allocation of funds.

Staff Comments. Generally, the implementing federal stimulus legislation generally anticipates the use of existing programs (or program models) in order for the state's to quickly and efficiently disperse these funds; however, there are some changes in the ARRA-funded programs and the HCD estimates awards would be made throughout the summer of 2009 as follows:

- **CDBG** – Annually, CDBG awards are oversubscribed by 2:1, so the HCD believes there is capacity to use all of the $10.7 million (approximately 20 awards at $500,000 each). Contracts last for five years from execution through closeout and monitoring, and, based on past experience, the HCD anticipates it will require no more than 4 percent for departmental administrative functions. The CDBG requires a state match for the first two percent ($213,000) of the award amount ($10.7 million), and in the past the HCD has used GF. However, for this allocation, federal dollars will be matched with other qualifying activities as allowed by HUD regulations.
- **FESG** – These funds are for the HPRP. The purpose of the HPRP is to fund homeless prevention activities for homeless persons and "persons at risk" of homelessness. More specifically, the HPRP funds are available for financial assistance, including short-term rental assistance (up to 3 months) and medium-term rental assistance (up to 18 months), security deposits, utility deposits, utility payments, moving costs, and hotel/motel vouchers; and housing relocation and stabilization services, including case management, outreach, housing search and placement, legal services, and credit repair. In contrast, the existing FESG program funds renovation, rehabilitation, or conversion of a building to a shelter; essential services (limited to 30% of grant, can be waived); operations of

homeless shelters (staff salaries for operations management limited to 10% of grant); and homelessness prevention , including short-term mortgage /rent, short-term utilities, security deposits, first month's rent, landlord-tenant mediation, tenant legal services (limited by law to 30% of grant).

- **NSP** – In contrast to the first funding provided through the HERA, the ARRA-funded NSP is competitive. Based on prior allocations, the HCD estimates the state could receive $74 million which would be distributed among approximately 30 contracts statewide. The NSP allows up to ten percent of the award to be used for administration, of which the HCD does not anticipate to exceed more than 5 percent. Any remaining allocation would go to qualifying local jurisdictions and non-profits.

Staff notes that not all federal guidelines for the above programs are complete, and so the Committee may want the HCD to return at a later date with an update on whether or how these guidelines affect the HCD's ability to implement the programs as proposed (particularly with respect to meeting all federal oversight requirements). Similarly, because the program is competitive, the Committee may desire the Administration to notify the Legislature on the final amount of NSP funding received. (Although a larger than anticipated amount would likely trigger a section letter, a lower amount would not.) Finally, the Committee may wish to inquire of the HCD regarding other pots of ARRA funding that could be used to benefit HCD programs. For example, $100 million has been made available through the Emergency Food and Shelter Program and the California Emergency Management Agency (CalEMA) has been made the state lead for implementation, but it is not clear whether or not the HCD might have a role to play, particularly if the homeless crisis described earlier qualifies as an "emergency" under the federal law.

Committee Questions. Based on the above comments, the Committee may wish to ask the following questions:

- What uncertainties still exist relative to federal guidelines for the programs identified above? How, if at all, will the HCD be affected by the intense federal scrutiny of ARRA implementation?
- Given that the NSP is competitive, does the Administration object to including provisional language that would trigger notification to the Legislature if the amount awarded to the state is significantly below the $74 million estimated?
- What, if any, discussions has the HCD had with CalEMA regarding the Emergency Food and Shelter Program? Is there potential funding available to assist the HCD's constituents?

Staff Recommendation: HOLD OPEN.

Action: Held Open.

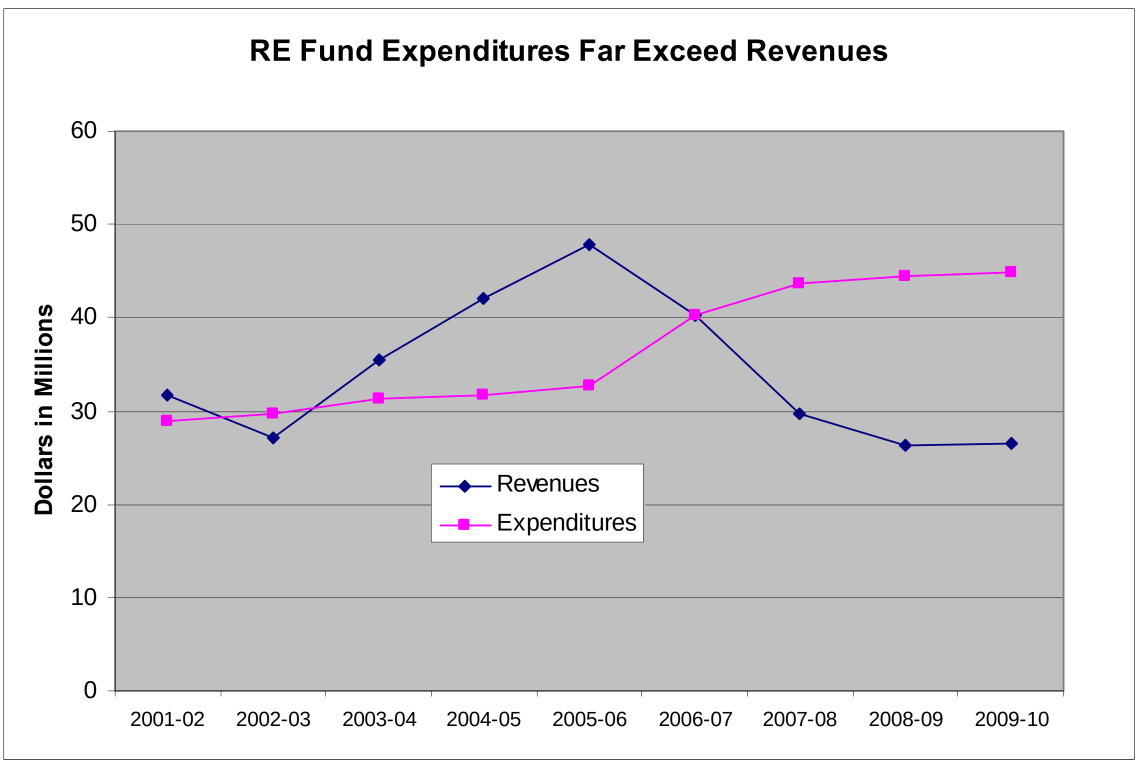
2320 Department of Real Estate

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 $45.3 million (no General Fund) in total expenditures and 336 positions for the Department – an increase of approximately $600,000 and zero positions.

DISCUSSION ITEM:

1. Informational Item: Real Estate Fund Condition. The Real Estate Fund (RE Fund) is the DRE's main source of support. The RE Fund derives most of its revenue from real estate license and application fees as well as fees charged to those wishing to subdivide lands. These fees account for about 90 percent of the estimated $27 million in revenues projected in the 2009-10 Governor's Budget. Due primarily to the downturn in the economy and the national mortgage crisis, the real estate business has suffered, the above fees have generated less and less revenue, and a structural deficit has emerged in recent years as DRE spending has remained relatively constant (see Figure 1 below). Barring corrective action, the LAO estimates that the RE Fund would end the 2009-10 fiscal year with a $500,000 reserve and would become insolvent shortly thereafter.



Statute sets a cap on DRE fees, but permits the department to adjust them through regulation under the prescribed ceiling. However, the DRE must decrease fees anytime the RE Fund balance exceeds 150 percent of the following year's anticipated expenditures, and Section 10226.5 of the Business and Professions Code (Chapter 232, statutes of 1997, AB 447, Kuykendall), contains a "poison pill," that requires DRE to lower fee levels (to 1982 levels) any time funds are transferred from the RE Fund to the GF. This latter provision was triggered in 2003 when the fund enjoyed a considerable reserve and was able to loan $10.7 to the GF (to address a previous fiscal crisis). Staff notes that despite this reduction, RE Fund revenues continued to increase during the real estate boom of 2002 to 2006 due in large part to the record high volumes of examination and license applicants.

Staff Comments. The DRE has notified staff of its intent to increase fees to the statutory maximum effective July 1, 2009. Some highlights of the proposed fee increases are detailed below in Figure 2 (with the pre-"poison pill" (2002) levels shown for the sake of comparison).

Figure 2

Fee	Current	Proposed (Statutory Max)	2002 (Pre-Poison Pill)
4-year Broker's License	$165	$300	$218
4-year Salesperson's License	$120	$245	$129
Broker's Examination	$50	$95	$95
Salesperson's Examination	$25	$60	$60

After accounting for these fee increases, the DRE projects a revenue stream averaging $37 million annually from 2010-11 through 2013-14, with expenditures averaging $45 million (i.e., the DRE would still be spending approximately 25 percent more than it is taking in). Based on these projections (which assume no immediate turnaround in the real estate market), the RE Fund would become insolvent in 2012-13 without repayment of the outstanding $10.7 loan to the GF, and would still face insolvency one year later even with the loan repayment. Thus, the planned fee increase is necessary, but not adequate, to fix the RE Fund condition, and the Legislature should begin considering other options to address the structural deficit.

Among the options available to the Legislature are the following:

- **Adjust the existing statutory fee framework to "smooth" DRE revenues.** The DRE is currently conducting a fee study to better identify the true costs of the services it provides, and the Legislature will likely want to wait for the outcomes of this study before taking any action. However, the Legislature can certainly begin weighing implementation of one or more of the following in order to smooth RE Fund revenues over time (so that the fund reserve peaks are not quite so high and troughs are not quite so low):

    - o Re-align statutory fee limits with the true "cost of business" (which could include eliminating statutory fee limits)
    - o Index fee increases by the CPI or some similar factor if the costs of business are driven by identifiable/measurable causes like inflation

    - Eliminate or modify poison pill language so that fees are not decreased so dramatically in good times (staff notes that it has been more than 10 years since the fee "floor" was frozen at 1982 levels and it may be time to "raise the floor")

- **Reduce DRE expenditures.** As depicted in Figure 2 (above) the DRE received significant augmentations during "flush" years, but has yet to be reduced by a single position in the face of the current economic downturn. As discussed in the next agenda item, the DRE has shifted resources out of client services and into enforcement as growth in the licensee population has stagnated and real estate fraud has increased; however, the Legislature may still wish to consider judicious reductions if the DRE cannot clearly justify workload and generate the revenues to support it.

Committee Questions. Based on the comments above, the Committee may wish to ask the following questions:

- When does the DRE anticipate the current fee study will be completed, and what does the department expect to learn from it? Will the full results be shared with the Legislature?
- Since the proposed fee increase will not completely solve the structural deficit, what other options is the Administration weighing? For example, are additional fee increases and/or expenditure reductions on the table? When can we expect to receive a final proposal?

Staff Recommendation: NO ACTION recommended at this time.

No Action.

2. Informational Item: Workload Shift. As noted above, the economic downturn has resulted in a dramatic decrease in applications for real estate licenses and examinations (e.g., the overall licensee population peaked in November 2007), yet the 2009-10 Governor's Budget reflects no change in departmental personnel or funding levels. While staff notes that the DRE has made some minor adjustments at the margin (see more below), based on the fact that DRE expenditures grew by approximately 50 percent over the past five years, the Committee may wish to request the department to provide further justification for the ongoing level of expenditures. For example, the Legislature approved 4.0 positions in 2006-07 to address an increase in the number and complexity of subdivision and timeshare filings, but the DRE indicates this workload has since decreased to below normal levels. The following is a brief summary of adjustments implemented thus far by the department:

Workforce Adjustments Implemented by the DRE

- Redirection of one-half of all Examination and Original Licensing staff as follows:
    - Internal redirection to the Licensing Call Center, business support section, renewals, Internet email inquiry project.

- Redirection of two positions to consumer outreach – one to support the executive appointment of the Consumer and Industry Outreach Liaison.
- Redirection of one position for the creation of the Information Security Officer.
- Redirection of one position to Accounting to ensure timely payment of invoices and management of accounts payable workload.

* Termination of all 3 retired annuitants
* Termination of all 17 student assistants
* Separation of all 19 seasonal clerks
* Reduction in examination proctors by 60% - down to 20 proctors statewide
* Redirection of all Examinations overtime funding to the Enforcement and Administration programs
* Redirection of 20 percent of all criminal background cases to the Subdivisions Deputy
* Redirection of one position to Administration to support Legislation and increased mortgage lending activities
* Redirection of one position in the Legal section reclassified to an attorney position supporting general law workload and subdivision issues streamlining the prosecutorial division workload
* Redirection of one position to Enforcement to answer consumer calls and complaints on mortgage and loan modification questions

Committee Questions. Based on the above, the Committee may wish to ask the following questions:

- Over the last several years, the DRE was approved to implement several automation projects to increase its efficiency in delivery of services. Between these increased efficiencies and the reduced demand for client services (e.g., examinations), why is it necessary for the DRE to maintain the same level of staffing?
- Where the DRE has redirected staff, can the department provide more thorough documentation (data) of an increase in workload? Is the DRE using these staff to address an increase in the volume of existing workload, or is the DRE redirecting to expand its efforts into workload that it did not previously address?

Staff Recommendation: NO ACTION recommended at this time. Request the DRE to continue working with staff to provide justification for existing authorizations.

No Action.

3. BCP-2: Sacramento Headquarters Office Relocation. The DRE requests a one-time augmentation in the amount of $1 million (one-time) to partially cover the estimated costs ($1.3 to $1.5 million) to relocate and consolidate its downtown Sacramento Headquarters Office and Examination Center at a new location. The requested funds would not only pay for moving expenses, but telephone and data expenses, supplies, and new modular furniture (estimated at $1 million).

Background. The DRE currently pays $938,000 per year for the existing facilities, which it has occupied for over 20 years; however, the department has the following concerns with the current space that it believes necessitate the move to a new location:

- *Construction, health and safety concerns, and deterioration problems are prevalent throughout the facilities. Some examples include a chair working its way through the flooring on the second floor, file storage weight concerns also on second floor, and flooding through low spots in offices on first floor.*
- *Americans with Disability Act (ADA) compliance issues exist with the present facility and adjacent handicapped parking. Deliveries are unloaded in the unevenly graded alley behind the building where handicapped parking and pedestrian traffic is adversely affected.*
- *Both the Headquarters Office and the Examination Facility lack adequate space.*
- *Front counter interview rooms do not exist and are needed to conduct licensee corrective interviews or take consumer complaints. Today such sensitive conversations take place in public exposing confidential, personal, and financial information to anyone present at the front counter.*
- *Building security system and access doors are unreliable. No security cameras in office space or examination center.*
- *Sewer conditions and issues are prevalent; open bubbling sewer vents in alley behind building, inability to improve lavatory facilities due to old and inadequate plumbing into city sewers, sewer gasses released through vents in examinee/employee parking facility as well as in alley.*
- *Examination Center subject to mold conditions in winter as a result of water seepage through concrete cracks in the floor. Examination Center requires extensive renovation to accommodate electronic testing (like facility renovation in Oakland is projected to cost $500,000).*

According to the DRE, the structural issues above preclude a cost effective renovation of the existing facilities, particularly once increased rent and the cost of a double move are factored into the equation (since the department would need to vacate the premises for between 12-18 months during renovation). Instead, the DRE has begun working with the Department of General Services to identify alternative sites within the city limits—DRE is statutorily required to locate its headquarters—where the two present facilities could be consolidated under one roof. Thus far, the DGS has identified two promising locations in Natomas and estimates the new annual rent at approximately $2.6 million per year (or about $1.7 million more than the current rent). The increased costs are driven by: (1) increased market rates since the DRE locked-in its last long-term lease agreement; (2) the amortized cost of tenant improvements; and (3) an additional 6,000 square feet relative to the existing locations (approximately 51,000 square feet versus 45,000 square feet). The DRE indicates that it is hopeful, given the record high vacancy rates in commercial real estate, that the state can create a bidding war and lock in an even lower long-term lease rate by closing a deal in the near future.

Staff Comments. Staff does not necessarily dispute the DRE's claim that the existing facilities do not meet the department's long-term needs. However, an additional $1 million in budget year expenditures (with an increase of at least $1.5 million annually in the out years) would only increase the magnitude of the structural deficit the department is facing (as discussed above). Although a soft commercial real estate market may present a good opportunity for the state to get a bargain on new office space, the department has not yet demonstrated that it has the long-term cash flow to support any new expenditure—even if it is a “good deal.” Additionally, staff notes that the department has been conservative in its estimates regarding a real estate market recovery over the next couple of years, and so, by the DRE’s own logic, it does not seem unreasonable to think that the state could still get a good price on new space for the department in a year or two from now—after the RE Fund condition has been addressed.

Committee Questions. Based on the comments above, the Committee may wish to ask the following questions:

- Why should the Legislature feel comfortable approving this request given the current condition of the Real Estate Fund?
- What are the pro and cons (costs and benefits) of the department remaining on a month-to-month lease in its existing location until a plan to fix the RE Fund condition is approved?

Staff Recommendation: HOLD OPEN pending additional information from the department on how it plans to address the ongoing structural deficit of the Real Estate Fund.

Action: Held Open.

Appendix A

THE SACRAMENTO BEE sacbee.com

Editorial: Cuts in homeless funds shortsighted

Published Sunday, Apr. 12, 2009

After witnessing the rising number of homeless in this state and the tent cities they inhabit popping up in Sacramento and other cities, it would be easy to conclude that nothing works, that homelessness will always be with us.

Then you meet someone like Liana Luna, the 32-year-old former meth addict and mother of three who has been homeless almost all her life. Today, she has a job, a roof over her head, a driver's license and a properly registered car. She pays taxes. As she explained to The Sacramento Bee's editorial board, homeless programs helped turn her life around.

She took advantage of all the assistance Sacramento County and city offered to its homeless: emergency housing, drug treatment, schools for her child, transitional housing, job training and more.

Now that she's on her feet, she worries that these programs that helped lift her out of homelessness are at risk. She's right to worry. They are.

In the last state budget, Gov. Arnold Schwarzenegger blue-penciled $4 million in Emergency Housing and Assistance Program funding. EHAP funds provide operating assistance to 100 emergency shelters and transitional housing programs in every county in California.

The Fresno Economic Opportunities Commission used $22,000 in state EHAP funds to capture an additional $285,000 in federal sources to run one of its transitional living centers.

Locally, the Gathering Inn, South Placer County's only emergency shelter, reports that the governor's cut cost that facility $38,000 in state funding. The shelter serves approximately 60 men, women and children every day, many of whom are mentally ill. It may be forced to close for 30 days because of the cut.

In his veto message the governor said the $4 million in emergency shelter funds he had cut was needed to build a rainy-day fund for the state. But as advocates point out, the governor's message ignored the reality that homeless in this state "are already in the midst of a torrential downpour."

It would be unfair to suggest that Schwarzenegger has done nothing. He, along with Sacramento Mayor Kevin Johnson, visited the much-publicized homeless encampment near Sacramento recently. After that visit, the governor worked with city and county officials to expand the number of beds at the emergency shelter that operates on state property at Cal Expo and to extend operations there to the end of June.

He has also sent a letter to the Obama administration asking the federal government to speed stimulus funds specifically designated to help the homeless in California. Sacramento's share of that money is set at $2.4 million.

But this kind of ad hoc effort is not enough. Homeless advocates complain that California has not yet completed a statewide homeless plan despite convening a conference on the issue three years ago.

They also note that 10 separate state agencies have responsibility for different aspects of the homeless problem; their efforts are uncoordinated and, as a result, wasteful and ineffective.

Assembly Bill 1177, authored by Assemblyman Paul Fong, D-Santa Clara, would create a California Interagency Council on Homelessness to coordinate planning for the state and to facility cross-agency and community cooperation in responding to homelessness. That's a step in the right direction. But more is needed.

The governor should make this issue a priority, not just by showing up at homeless encampments but by doing the hard work of coordination and planning. That work helps to sustain and expand the kinds of programs that transformed Liana Luna from homeless vagrant to taxpaying citizen.

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, May 7, 2009
9:30 a.m.
Room 112

Hearing Outcomes

Item Number and Title **Page**

Items Proposed for Consent / Vote-Only

(See Consolidated Vote-Only Recommendation on page 5.)

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 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 provides the OPR with $37.2 million (including $6 million GF) and 109.6 positions. This is an increase of $2.2 million and 9.5 positions, primarily resulting from the proposed transfer of the Office of Gang and Youth Violence Policy from the California Emergency Management Agency (CalEMA) to the OPR.

FL: Technical Budget Adjustment. The Governor requests the OPR budget to be reduced by $1.8 million GF in order to: (1) reverse the transfer of the Office of Gang and Youth Violence Policy (OGYVP) from the CalEMA to the OPR proposed in the Governor's Budget and adopted in the February enacted budget ($1.2 million GF); and (2) correct a technical error in the 2008-09 budget which was inadvertently carried over into the 2009-10 budget ($0.6 million GF). The proposal also includes: (1) a reversion item to capture current year GF savings of $521,000 related to excess authority created by the technical error; and (2) deletion of two OPR budget items that are unneeded with the decision to leave OGYVP at CalEMA.

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 provides the SCO with 1,452.5 authorized positions and $166 million (including $56.6 million GF). This is an increase of 35.8 positions, but a decrease of $12.4 million (including $1 million GF).

FL: Unclaimed Property Systems Replacement Project. The Governor requests the SCO's budget be reduced by $224,000 (Unclaimed Property Fund—UPF) and 2.6

positions in 2009-10 and an additional $140,000 (UPF) and 2.3 positions in 2010-11, consistent with adjustments to the most recent Special Project Report (SPR).

Staff Comments. The previous SPR anticipated 2009-10 project savings that were $668,400 (and 8.6 positions) greater than those the Governor proposes to "score" with this requested reduction. However, the enactment of Chapter 179, Statutes of 2008 (the General Government trailer bill to the Budget Act of 2008) placed new requirements on the Unclaimed Property System, and this request reflects those additional costs (i.e., unachievable savings).

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 $26.6 million ($3.1 million GF) and 180.5 positions – an increase of $1.2 million (all GF due to a previous technical error in the amount of costs recovered from other funds) and a decrease of one position. The non-General Fund expenditures of the Board are supported by reimbursements for services provided to other State departments.

FL-1: Court-Ordered Medical Quality Hearings. The Governor requests two positions and $507,000 (reimbursement authority) to establish a court-ordered concurrent medical quality and disciplinary hearing unit for physicians employed by the California Department of Corrections and Rehabilitation (CDCR).

Staff Comments. According to the Administration, the CDCR would pay all costs to establish this new medical quality hearing unit, which would include: (1) a full-time Administrative Law Judge and Legal Secretary; (2) a $75,000 contract with the Institute for Medical Quality, a non-profit corporation specializing in providing peer review services for the medical industry; and (3) $205,000 to pay medical panelists for their time (at approximately $200 per hour during the selection process and $1,500 per day during throughout the hearing). These estimates assume three, six-day hearings per year, with five panel members interviewed, and three selected.

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) represents the Governor as the "employer" in all matters concerning State employer-employee relations. The Department is responsible for all issues related to salaries, benefits, position classification, and training. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

The Governor proposes expenditures of $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).

FL: 21st Century Project. The DPA requests 6.0 limited-term positions and $518,000 (reimbursement authority) to continue as an active participant of the 21st Century Project—a project being undertaken by the SCO to create an integrated human resource management system to replace the existing payroll, employment history, position management, and leave accounting systems.

Staff Comments. The Governor's request is consistent with adjustments made in the SCO's budget during the fall budget process; however, the project has undergone significant changes in the intervening months (including the firing of the system integrator—Bearing Point). For this reason the Legislature anticipates an updated project plan and budget proposal in the May Revise. As such, the Subcommittee may wish to go ahead and approve this request—even though it does not reflect a "final number"—as a way to acknowledge that the DPA budget will simply conform to the final 21st Century project plan approved by the Legislature. In so doing, the Subcommittee would signal its intent that this issue does not need to be heard again as part of the DPA 2009-10 budget.

Consolidated Staff Recommendation on all Vote-Only Items: APPROVE each the four FLs above (including the DPA 21st Century Project item as conforming to the final decision on the main 21st Century Project item within the SCO's budget).

VOTE:

Action: Approved the staff recommendation for all 4 vote-only items on a 3-0 vote (Wright absent).

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 proposes expenditures of $1.3 billion ($6.9 million GF) and 4,103.3 positions – an increase of $41.8 million (including a decrease of $3.2 million GF) and a decrease of 23.5 positions.

VOTE-ONLY ITEMS:

<u>Capital Outlay Projects</u>
1. FL: Remove Unnecessary Special Fund Authority for Capital Outlay Project De-Funded in the February Enacted Budget. The Governor requests a reduction of $3 million (special fund) for the California Department of Corrections and Rehabilitation (CDCR), California Institute for Women at Frontera, Corona: Walker Clinic and Infirmary, Structural Retrofit-Construction project. The project cannot be completed without the GF portion of the project funding, which was deleted from the 2009-10 budget in February 2009.

2. FL: Reappropriate Library and Courts Building Renovation and CDCR Hospital Building Structural Retrofit Funding. The Governor requests a reappropriation item to be added to the 2009-10 budget so that the unencumbered balances of the existing appropriations for the Library and Courts Building renovation project ($59.6 million) and the structural retrofit of the Hospital Building at Deuel Vocational Institution in Tracy ($3.7 million) can be expended. These projects were delayed when the state's cash crisis required suspension of disbursements from the Pooled Money Investment Account. The requested reappropriations would enable the projects to move forward again once the current budget crisis is resolved.

Staff Recommendation: APPROVE the two capital outlay requests listed above.

VOTE:

Action: Approved the staff recommendation for both vote-only items on a 3-0 vote (Wright absent).

DISCUSSION ITEM:

1. Energy Efficiency Retrofits at DGS Facilities. The Governor requests $5 million (DGS Revolving Fund) to implement energy efficiency retrofit projects at twelve of its facilities. The retrofit projects would include upgrading lighting systems, tuning up air handling equipment, and improving building control systems. The projects would ultimately be paid out of various state funds through the rental rates DGS charges its tenants.

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Due to their age, most DGS-owned buildings operate out-of-date and inefficient systems that are difficult to maintain. Given that a building's heating, ventilation, and air conditioning (HVAC) system, for example, can account for as much as 65 percent of overall energy usage, even a modest improvement to the system can result in significant energy savings. Therefore, in an effort to improve building performance and reduce state energy and maintenance expenditures, the DGS has been working with investor-owned utilities (IOUs) to determine which buildings in its portfolio would benefit most from improvements (retrofits) to their existing systems. The IOUs have helped complete energy audits, preliminary assessments, and data analyses, and the DGS has identified the retrofits to the twelve facilities contained in this request as those providing the state with the biggest "bang for the buck" in terms of payback on investment.

According to the DGS, the proposed retrofits would achieve approximately $1.3 million in annual savings, which equates to an overall payback period of about five years on the initial $5 million investment. These savings do not include rebates and other incentives that may be available through the IOUs for the implementation of energy efficiency measures. The DGS indicates that rebates could take the form of future reductions in utility rates, or one-time cash payments. If the latter, the cash could be used to offset future rental rate increases for DGS-building tenants, or as seed money to fund additional rounds of retrofits (as is the DGS preference).

Staff notes that, although this request is for special fund authority, the $5 million cost of this proposal is assumed in the rental rates DGS charges its state tenants, and is implicitly accounted for in the inflation adjustment (or "price increase") built into the appropriation levels reflected in the February 2009 enacted budget. Therefore, this BCP is not without cost, particularly since approximately 75 percent of the building rents supporting this expenditure are paid out of the GF. With statewide GF revenues for April coming in approximately $2 billion below estimates, the Committee may wish to strongly consider whether the five-year payback period on these projects is sufficient to justify the added GF expenditure given the looming fiscal crisis facing the state. Should the Committee opt to deny the proposal, it would not necessarily be practical to "score" savings (by reducing each affected department's appropriation); however, given the likelihood of future unallocated reductions, department's would have more flexibility in taking any future cuts without adversely impacting service levels.

If the Committee should choose to approve the proposal, staff strongly recommends reporting language to: (1) track the efficacy of the projects; (2) notify the Legislature of any rebates; and (3) provide the Legislature oversight of any future retrofit projects (including, potentially, a comprehensive programmatic plan).

Staff Recommendation: NO ACTION. The Committee should await further detail concerning the state's fiscal outlook before committing additional GF resources.

No Action.

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 proposes expenditures of $143.5 million ($44.7 million GF) and 872.5 positions – an increase of $11.1 million ($4.1 million GF) and 25 positions.

DISCUSSION ITEMS:

1. BCP-1: National Guard Education Benefit Program. The Governor requests 2.0 positions and $1.8 million GF for the half-year costs to establish a California National Guard (CNG) Education Benefit Program. The full-year implementation of the program would cost $3.7 million beginning in fiscal year 2010-11.

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. According to the CMD, an education benefit program would strengthen the CNG by promoting the pursuit of higher education among its membership and thereby increasing the capability of the CNG to support California when needed. The CMD indicates that California is one of the only states in the country that does not provide an educational benefit to members of its National Guard. The CMD believes the lack of an education benefit to its members makes the CNG less competitive with other states in the recruitment and retention of members.

Staff notes that the Governor has requested an education benefit program for the CNG each of the last two years and the request has been denied by the Legislature each time. Two years ago, this Subcommittee denied the request without prejudice 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 trailer bill language submitted with the Governor's Budget was unworkable as proposed. Last year, the Governor submitted a funding request in the budget, and the CMD sponsored a bill (SB 1752, Wyland) in order to have the policy approved through the proper policy committee. SB 1752 was ultimately approved, with amendments, by the Senate Education Committee; however, it died in Appropriations. Meanwhile, this Subcommittee denied the Governor's funding request based on the rationale that: (1) the Senate does not fund bills (rather, policy bills lacking appropriations are funded only after they become law); and (2) the request did not meet the Subcommittee's minimum threshold for approval given the state's fiscal crisis—it would not produce off-setting savings and it did not share an immediate nexus with issues of health and safety.

This year, the Governor has again submitted a funding request with trailer bill language and the CMD is pursuing a separate policy bill—SB 815 (Cogdill)—to implement the education benefit program. Nearly identical to SB 1752, SB 815 recently passed out of the Senate Education Committee and is assigned to be heard in Senate Appropriations. The bill would establish 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, and maintain a 2.0 grade point average or higher.
- The Adjutant General would review the program applications, prioritize those applicants who qualify for an award and who possess the skills most needed by the CNG, and certify the eligibility of the qualifying members to the Student Aid Commission (SAC).
- The SAC would be responsible for issuing the program awards which would not exceed the maximum award for a Cal Grant A award, or 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 bill would also require: (1) the CMD to annually report to the Legislature regarding program participation; (2) the LAO to report after five years on the program, and include recommendations for modifying or extending it; and (3) a $3,651,000 appropriation to make the enacting statutory language operative.

Similar to last year, and consistent with past practice in the Senate, the Subcommittee may wish to allow the proposed policy change to finish winding its way through the normal bill process before considering the program for permanent funding. And, in the event the program is ultimately enacted, the Subcommittee should again seriously consider whether the program is a budget year funding priority given the fiscal crisis facing the state, and the lack of an immediate benefit to the GF (either through additional revenue or offsetting savings) or health and safety.

Staff Recommendation: NO ACTION.

No Action.

2. BCP-2: Service Member Care Team. The Governor requests eight positions and $1 million GF to support the mental health needs of CNG members and their families. The four mental health providers and four Chaplains requested would provide voluntary, part-time support, including mental health prevention services, training, intervention, and reintegration assistance during pre- and post-mobilization activities, training events, and casualty notification missions.

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Since September 11, 2001, CNG members have responded to deployments within California (e.g., wildfires), other states (e.g., Louisiana for Hurricane Katrina), and overseas (including the combat zones of Iraq and Afghanistan). With the significant increase in the demands placed on CNG members, and particularly in the face of the two "signature injuries" of the current overseas conflicts—Post-Traumatic Stress Disorder and Traumatic Brain Injury (TBI)—the need for mental health services within the CNG community has grown. According to the CMD, its 25,000 personnel have participated in a total of 25,549 deployment iterations since 2001, with 25 members paying the ultimate sacrifice. Recently, the CNG lost four service members and one dependent family member to suicide over a six-month period. Meanwhile, the Department of Defense (DOD) Mental Health Task Force report of June 2007 found that 38 percent of all soldiers report psychological symptoms following a combat deployment, and among members of the National Guard, the figure rises to 49 percent.

The CMD notes that the current CNG force structure includes only one permanent mental health professional responsible for mental health training, intervention and referral for the largest authorized guard force in the country. This position was approved by the Legislature as requested by the CMD in the 2007-08 budget year in order to provide a full-time mental health care capability for all CNG members by coordinating the efforts of 38 civilian mental health professionals provided to the CNG by DOD under the Tri-West pilot program. Although spread across 104 state armories and eight air stations, according to CMD staff, the Tri-West program has been largely effective in helping to "de-mystify" mental health issues and services for members. Prior to mobilization members receive training on suicide prevention and TBI, as well as a "battle mind" course designed to prepare them for the emotional and psychological rigors of deployment to a war zone. While the CMD has prevailed upon the DOD to extend the Tri-West program through 2010 (due to concerns regarding the lack of a viable alternative), the CMD indicates it would much prefer to maintain its own, military, mental health capability in order to better manage mental health issues related to military regulations, particularly where a member's career may be on the line (or where career concerns might otherwise prevent a member from seeking service).

LAO Comments. In its 2009-10 Budget Analysis, the LAO recommended the Legislature reject the proposal to fund these positions with GF, and instead suggested that the Administration explore the use of funds from Proposition 63 (Prop 63), the Mental Health Services Act. According to the LAO, it appears that the positions proposed would engage in activities consistent with Prop 63 and the historic uses of its funding. Currently, over 14 different state departments use Prop 63 funds for administrative activities such as providing training and coordination of mental health services. For example, the Department of Veterans Affairs funded two staff at a cost of $496,000 in 2007-08 to support the development of a statewide veteran mental health referral network at the county level for all entities that may become access points for veterans and their families seeking mental health assistance. Funding for state administrative costs cannot exceed 5 percent of the total annual funds available from Prop 63; however, there is currently $24 million available to fund additional state administrative activities.

Department of Mental Health Response to LAO Recommendation. In response to the LAO's recommendation, the Administration reports that the Department of Mental Health (DMH) has raised the following concerns with the possibility of utilizing Prop 63 funds for this request:

1) The CMD is proposing direct funding from Prop 63 to provide mental health services to members and families in conflict with the Prop 63 requirement that mental heath services funded under the proposition be delivered by counties under contract with the state;
2) It would appear that few, if any, of the proposed services are to be directed at either of Prop 63's primary target groups (seriously mentally ill adults and seriously emotionally disturbed children, as defined in statute); and
3) While Prop 63 allows up to 5 percent of the annual MHSA revenues to be spent on administrative costs, historically, direct services have not been supported from this funding source.

Additional Staff Comments. Staff notes that the above comments from DMH appear to reflect a very narrow analysis of the CMD's preferred programmatic structure, rather than a more collaborative, problem-solving approach to the challenge of addressing the mental health needs of CNG members. Given that the GF is critically oversubscribed, and the Legislature will soon be faced with trying to close a multi-billion-dollar fiscal gap, a GF solution to the CMD's mental health "problem" appears unlikely, if not totally infeasible. Therefore, the Subcommittee may wish to encourage the DMH to work more creatively with the CMD to develop an alternative program design that utilizes either Prop 63 or some other non-GF source. Additionally, the Subcommittee may wish to recommend that the CMD explore the possibility of prevailing upon the DOD to further extend the Tri-West program in the absence of a state solution.

Staff Recommendation: NO ACTION.

No Action. The Chair requested the Administration to provide staff with additional information regarding ongoing discussions with the Department of Mental Health on the use of Prop 63 funds to address the CNG's needs.

3. Various Capital Outlay Projects (COBCPs 1, 2, and 3). The Governor requests $2.8 million ($1.2 million GF and $1.6 million federal funds—FF) for the following capital outlay projects:

- Statewide Latrine Renovations – $730,000 GF; $1.1 million FF
- Statewide Kitchen Renovations – $334,000 GF; $366,000 FF
- Advanced Plans and Studies – $125,000 GF; $125,000 FF

2009-10 Enacted Budget. This request was "withheld without prejudice" from the February enacted budget.

Staff Comments. Notwithstanding the justification provide by the CMD, in response to the state's ongoing fiscal crisis this Subcommittee deleted funding for similar projects last year due to the lack of a compelling justification (either offsetting GF savings or a direct and immediate impact on health and safety). Staff notes that the Subcommittee may wish to apply the same rationale again when considering the following projects:

- Statewide Latrine Renovations. Many state-owned public facilities operated by the Military Department as armories do not meet the requirements of the Americans with Disabilities Act (ADA) of 1990. Most are over 50 years old and have never been updated. Restrooms are not ADA compliant. Armories are used by the public, which exposes the possibility of litigation to require ADA compliance. Additionally, many armories do not have women's showers.

- Statewide Kitchen Renovations. Many state-owned public facilities operated by the Military Department as armories do not comply with the requirements of California Title 24 and fire code and thus cannot be used for cooking and food preparation. As mentioned above, armories are used by the public for such purposes as wedding receptions, after school programs, voting, emergency shelters, etc.

- Advanced Plans and Studies. According to the CMD, recent experience has shown that the current process it uses to develop the scope and cost of its projects often results in underestimating costs. The department is proposing to conduct design charrettes to confirm project scope and costs.

Staff Recommendation: NO ACTION.

No Action.

8950 Department of Veterans Affairs

The California Department of Veterans Affairs (CDVA) has three primary objectives: (1) to provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) to afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) to provide support for California veterans' homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided.

The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services. With $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy (Ventura County), Fresno, and Redding.

The Governor proposes expenditures of $393 million ($206.8 million GF) and 2,155.1 positions – an increase of $30.5 million ($29.2 million GF) and 299.5 positions. These increases primarily reflect the planned activation of the new veterans homes.

DISCUSSION ITEMS:

1. BCP-1: GLAVC Veterans Homes Activation Phase III. The Governor requests partial-year resources of 181.6 positions and $18.5 million GF to complete construction, activate business operations, and begin admitting veterans to the Veterans Home of California at Greater Los Angeles/Ventura County (VHC-GLAVC). Beginning in fiscal year 2010-11, the full-year costs of this proposal would be 356.7 positions and $29.3 million GF.

2009-10 Enacted Budget. This request was fully funded in the February enacted budget.

Staff Comments. The GLAVC veterans homes, consisting of a main campus in West Los Angeles (WLA), and satellite homes in Ventura and Lancaster, were envisioned and enabled (along with new homes in Redding and Fresno) by the Veterans Home Bond Act of 2000, AB 2559 (Wesson) of 2002, and AB 1077 (Wesson) of 2004, which made funds available to meet the matching requirement to receive a grant from the United States Department of Veterans Affairs State Home Grant Program—which funds the majority of the project costs (the split is approximately 60 percent federal funds with the remainder consisting of General Obligation and Lease-Revenue Bonds). When fully operational, the GLAVC homes would add approximately 616 total beds to the veterans' home system, with levels-of-care spanning from a new Adult Day Health Care service in Ventura and Lancaster, to a Memory Care Unit in WLA (and including Residential Care for the Elderly (RCFE) at all three homes and a Skilled Nursing Facility (SNF) in WLA in between).

The Legislature approved construction and pre-activation funding for Phase I of GLAVC in the Budget Act of 2007, and ground-breaking for the three new homes took place on schedule in June and July of 2007. Phase II was approved in the Budget Act of 2008, and included additional pre-activation staffing for Ventura and Lancaster—which were scheduled for completion in December 2008, with the first residents to arrive in April—and WLA—which was scheduled to be completed in December 2009, with residents to be admitted beginning in the spring of 2010. Unfortunately, most of these timelines have slipped.

The CDVA's Phase III request, which covers the completion of construction and the pre-activation of WLA as well as the initiation of business operations and admissions to both satellite facilities, acknowledges some of the delays. However, staff notes that the latest DGS Quarterly Status Report for Capital Outlay Projects reflects additional delays of between three and five months at all three locations relative to the timetable assumed in the BCP (opening dates for the Ventura and Lancaster RCFEs are now delayed at least five months and four months, respectively, and WLA construction is at least three months behind. Therefore, the Subcommittee may wish to consider reducing the associated appropriation levels for the affected levels-of-care by 25 percent or more to acknowledge the anticipated budget year savings now and help balance the 2009-10 budget.

Staff Recommendation: REDUCE the requested resources by $5 million GF in recognition of an approximately three-month delay in construction and associated delays in hiring for the RCFE level-of-care at Lancaster and Ventura ($2.3 million), and for the RCFE, SNF, and Memory Care levels-of-care at WLA ($2.7 million).

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Harman absent). The CDVA noted that the delayed opening of the homes will also result in some erosion in GF revenues.

2. BCP-5: Member Fee Increase (Trailer Bill Language—TBL). The Governor proposes TBL to remove the existing income caps on CDVA member fees for all levels of care. The requested amendments would generate additional revenue of approximately $2.8 million to the GF.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. CDVA members currently pay for a portion of the costs of their care based on income caps (see Figure 1 on following page) established in existing law. The remaining costs not covered by the federal government are paid by the GF.

Figure 1

	Current		Proposed	
Level-of-Care	**Percentage of Income**	**Cap**	**Percentage of Income**	**Cap**
Domiciliary (DOM)	47.5%	$1,200	47.5%	None
Residential Care for the Elderly (RCFE)*	47.5%*	$1,200*	55%	None
Intermediate Care Facility (ICF)	65%	$2,300	65%	None
Skilled Nursing Facility (SNF)	70%	$2,500	70%	None

*There is no separate fee for the RCFE level-of-care; RCFE residents currently pay the same fee as DOM.

Staff notes that the current fee schedule above was set in 1994, and, while the cost of care has steadily increased since 1994, the only change in member fees was in 2001 when the DOM fee was reduced from 55 to 47.5 percent.

According to the CDVA, the following proposed changes to member fees (also displayed above) would make fees more equitable based upon the level of care and services provided:

- **Remove income caps for all levels of care**. The current structure caps the amount that each member pays. The caps, however, lead to inequities in that poorer residents pay a higher percentage of their total income. This change would impact approximately 17 percent of residents.

- **Add a separate fee structure for the RCFE level of care** in which the income contribution percentage is set to 55 percent. The RCFE is a higher level of care than DOM. Members living in RCFE are provided more services than DOM residents and fewer services than ICF residents. Therefore, the CDVA's proposed fee for RCFE residents is in accordance with the concept of increasing participation rates as members receive higher levels of care.

Additionally, the CDVA proposes the following with regard to non-veteran spouses:

- **Require non-veteran spouses to pay fees** based on the federal monthly per diem for a veteran, not to exceed 90 percent of total income. Currently, non-veteran spouses pay the same member fees as veterans but they are not eligible for common reimbursement streams such as Federal Per Diem or Aid and Attendance. This increases the cost that the state must absorb to provide care to non-veteran members. For example, by being ineligible for federal per diem, the state does not receive approximately $1,032 per month in federal funds at the DOM level and $2,233 per month at the ICF, SNF, and acute levels of care.

Staff notes that, while there is merit in re-thinking the current fee structure for members of California's veterans homes, the Subcommittee may wish to consider whether the incidence of the proposed changes would trigger unanticipated consequences (such as members leaving the homes because their fees increase too dramatically), or create an undue burden for members on a fixed income who based their decision to live at the homes on the rates set in current statute.

Should the Subcommittee like to consider other options, staff requested, and the CDVA has provided, the menu of fee choices contained in Appendix A. Staff notes that while each of the options features various pros and cons, none generates comparable GF revenue. Therefore, in weighing these options, and in light of a gaping GF shortfall confronting the state, the Subcommittee may wish to consider whether any of the options, while potentially more palatable to existing members, is sustainable even in the short-run (to say nothing of the long-run).

Staff Recommendation: APPROVE the Governor's proposed trailer bill language and score $2.8 million in revenue to the GF.

VOTE:

Action: Approved as budgeted on a 3-0 vote (Harman absent).

3. Establish Adult Day Health Care Fee (TBL). The Governor proposes TBL to: (1) establish an $85 per day fee to support the new Adult Day Health Care (ADHC) level-of-care that is scheduled to be offered at the Lancaster and Ventura homes beginning in April 2010; and (2) allow the CDVA to adopt rules and regulations to waive a portion of the fee based upon a defined means test. The fee would generate an estimated $22,000 in GF revenue for the budget year.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. ADHC is a therapeutically oriented out-patient day program that will provide qualified veterans with day-time health maintenance and restorative services for the purposes of maintaining the member's capacity for self-care. Because ADHC services are roughly equivalent to those that would be received in a SNF, the $85 per-day fee was calculated based on the existing $2,500 per-month cap on SNF fees, divided by 30 days. Staff has no concerns with this methodology, although, if the Legislature opts to lift the SNF cap (as proposed in Item #2, above), this could provide a rationale for a higher ADHC fee (either now, or in the future).

Staff Recommendation: APPROVE the trailer bill language establishing the ADHC fee.

Action: Approved as budgeted on a 3-0 vote (Harman absent).

9801 Statewide Issues

The following items were proposed in the Governor's Budget and, because of their far-reaching impact on state government, are tracked by staff as "statewide issues." However, from an administrative standpoint, these proposals primarily involve the DPA and the California Public Employees' Retirement System (CalPERS). Therefore, background on those organizations are provided on pages 3 and 19, respectively.

DISCUSSION ITEMS:

1. Contract for Lower Cost Health Care Coverage (TBL). The Governor proposes TBL to move management of employee and retiree health plans under the Administration. The Governor's Budget scores $180.1 million (including $132.2 million GF) in budget-year savings based on the assumption that "another authorized state entity" (presumably the DPA) could contract for lower cost health care. Currently, the Public Employees' Medical and Hospital Care Act (PEMHCA) vests the California Public Employees' Retirement System (CalPERS) with responsibility for managing PEMHCA health care programs for state workers, state retirees, and employees or retirees of participating local agencies.

2009-10 Enacted Budget. This request was withheld without prejudice from the February enacted budget.

Staff Comments. In scoring $180 million in 2009-10 savings, the Governor's Budget assumed that, effective January 1, 2010, the state could achieve a 10-percent savings in the share that the state pays for its employees and retirees health premiums. While these budget-year savings would be applied to the current fiscal crisis, the Governor's Budget assumed that out-year savings, beginning in 2010-11, would be applied to addressing the state's unfunded retiree health liabilities, which were estimated to be $48 billion in 2007.

Staff notes that, while legislative leaders opted not to adopt the Governor's proposal as part of the package of fiscal solutions enacted this past February, they did commit to hearing the proposal during the spring budget process as part of a gentleperson's agreement. Furthermore, the widening gap between the February revenue assumptions (e.g., April = -$2 billion GF) and the yawning out-year structural deficits facing the state virtually demand that this proposal gain some additional investigation even though the Administration readily admits that reducing health care costs would almost certainly require providing employees/retirees with less generous benefits ("a Chevy instead of a Cadillac").

LAO Comments. In its 2009-10 Budget Analysis, the LAO provided the following comments on the Governor's lower cost health care coverage proposal:

> **Moving Health Plan Administration to Within the Administration Is Worth Considering.** *Our office proposed moving health plan administration from CalPERS to DPA in 1985. At the time, we noted that DPA administered virtually all of the state's employee benefit programs, which is still true. In our Analysis of the 1985-86 Budget Bill, we wrote that "we can find no convincing reason why*

the CalPERS board, an independent entity having no overall responsibility for the negotiation and administration of state employee benefits, should be in charge of this one major benefit." Furthermore, having an independent entity manage health plans means that the state department in charge of coordinating personnel policy has only a token say (the DPA director sits on the CalPERS board) in how these plans structure and offer benefits. In effect, by delegating such vast power to the independent CalPERS board, the Legislature has diminished substantially its ability, through DPA, to direct state personnel health policies and costs. We continue to believe that exploring a move of health benefit programs from CalPERS to DPA makes sense.

Nevertheless, Achieving Large Changes and Cost Savings by January 2010 Is Unlikely. *While we are supportive of the administration's general approach, we are skeptical that a transition of the administration of health plans involving hundreds of thousands of state employees and, perhaps, local employees enrolled in PEMHCA can be achieved within a one-year timeframe. Moreover, the administration assumes huge cost savings that would, by necessity, involve large "cost-shifting" (through increased copayments, deductibles, or similar changes) from the state to employees and retirees. The Governor's proposal offers no meaningful detail on what changes would be implemented in health plans to achieve these considerable savings by January 2010.*

Committee Questions. Based on the comments above, the Subcommittee may wish to ask the following questions:

- What additional details can the Administration provide on how the proposal would be implemented and the targeted savings achieved?
- What, if any impact, does the Administration and the LAO believe this proposal might have on the state's ability to compete for and retain talented employees (particularly if, and when, the economy recovers and the unemployment rate is lower)?
- What challenges or potential obstacles could be posed by moving this responsibility out of CalPERS and into another entity (be it DPA, or another agency)?
- What efforts is CalPERS currently making to hold down the state's share of health care premiums?
- If health care contracting is to remain at CalPERS, what options are available in order to achieve savings of a magnitude similar to those proposed by the Governor?

Staff Recommendation: NO ACTION.

No Action.

2. 25-Year Health Vesting (TBL). The Governor proposes TBL to lengthen the retiree health vesting period for state, California State University, and judicial employees hired beginning on July 1, 2009, to 25 years.

Staff Comments. Currently, most state employees (hired since 1985) receive no state contributions for retiree health benefits until they reach ten or more years of service. These workers receive 50 percent of the maximum state contribution with ten years of service, increasing 5 percent annually until they are eligible to receive 100 percent of the maximum state contribution after 20 or more years of employment. The Governor's proposal would stipulate that future hires "may not receive *any* portion of the employer contribution" for retiree health care "unless he or she is credited with 25 years of state service at the time of retirement."

Similar to Statewide Issues agenda item #1 (above), legislative leaders opted not to adopt this Governor's proposal as part of the package of fiscal solutions enacted this past February; however, hey did commit to hearing the proposal during the spring budget process as part of a gentleperson's agreement. Staff notes that, while the proposal would not produce any immediate budgetary relief to solve the state's immediate fiscal problems, this proposal would substantially reduce the state's contributions to CalPERS for the cost of retiree health benefits over the long term.

LAO Comments. In its 2009-10 Budget Analysis, the LAO indicated the state's contributions to CalPERS to cover the cost of retiree health benefits is one of the fastest-growing budget items, and pointed out that the state's unfunded accrued liability for these benefits was estimated at $48 billion in 2007. Additionally, the LAO provided the following comments:

> **Other Options for the Legislature to Change Retiree Health Vesting.** *We believe that the administration's proposed changes to vesting have merit. Requiring future hires to work for an entire 25-year period before receiving any state contributions for retiree health benefits, however, is a fairly significant change. More modest changes could be enacted as an alternative: for example, allowing workers to receive a reduced benefit after 15 or 20 years of service, with that benefit increasing each subsequent year until the full state contribution is provided after 25 years of service.*

Committee Questions. Based on the above comments, the Subcommittee may wish to ask the following questions:

- Why did the Administration choose a "hard" 25-year vesting period as opposed to a more modest change as suggested by the LAO?
- In terms of order of magnitude, what would the likely out-year benefits of this proposal be, and how might those benefits change (decrease) if the Legislature opted for a more modest approach as suggested by the LAO?
- What, if any impact, does the Administration and the LAO believe this proposal might have on the state's ability to compete for and retain talented employees (particularly if, and when, the economy recovers and the unemployment rate is lower)?

No Action.

1900 California Public Employees' Retirement System

[Note: The following is provided as background on the California Public Employees' Retirement System (CalPERS), given its role in the DPA agenda item "Contract for Lower Cost Health Care Coverage." However, there are no additional items explicitly involving CalPERS.]

CalPERS provides benefits to about 1.1 million active and inactive members and about 476,000 retirees. CalPERS membership is divided approximately in thirds among current and retired employees of the State, schools, and participating public agencies. The Constitution grants the CalPERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. CalPERS sets the State's retirement and healthcare contribution levels – consistent with union contracts negotiated by the Governor and approved by the Legislature, and vested benefits. This budget item shows CalPERS benefits and administrative expenditures. State retirement contributions for current employees are built into individual department budgets and Control Section 3.60. State funding for 2009-10 Health and Dental Benefits for Annuitants is contained in Budget Item 9650. The special authority provided to CalPERS by the Constitution does not extend to the component of the Health Benefits Program funded from the Public Employees' Contingency Reserve Fund, and, therefore, CalPERS submits BCPs and Finance Letters to the Legislature for budget changes in those areas.

The CalPERS Board adopted a 2009-10 budget that anticipates benefit and administrative expenditures of $14.9 billion (and 2,184.5 positions)—up $1.2 billion (and down about 18 positions) from 2008-09. Administration is relatively unchanged at $320 million, so this increase is due to increased benefit costs. However, it should be noted that CalPERS also considers mid-year budget revisions which have been substantial in the past—for example, the 2007-08 mid-year revisions increased administrative expenditures by about $31 million and 54 positions. The State's retirement contribution for current employees is estimated at $3.1 billion (including $1.8 billion General Fund) – an increase of about $73 million (including a $13 million General Fund increase) relative to 2008-09. The State's 2009-10 cost for health and dental benefits for annuitants is estimated at $1.3 billion General Fund – an increase of $139 million (12 percent). However, the retiree healthcare cost is adjusted after the enactment of the budget to collect the special fund share through the pro rata process – so the final General Fund cost is actually reduced by about $628 million.

According to the LAO's 2009-10 Budget Analysis, as of January 2009, the CalPERS investment portfolio was about 25 percent below its value at the beginning of 2008-09, and CalPERS actuaries indicated the system was just under 90 percent funded as of their last valuation. These figures are based on the actuarial value of assets methodology that includes some asset smoothing to adjust for short-term fluctuations.

Appendix A – California Department of Veterans Affairs Member Fee Increase Optional Proposals

4/24/09

The following are optional proposals that CDVA considered:

1. Increase the Non-Veteran Spouse (NVS) member fee to a minimum of $1,800 per month. No change to the member fee for veterans.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	47.5%	$1,200
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care Minimum	$1,800

Annual Revenue: $1,400,000

2. Increase the member fee for the RCFE level-of-care from 47.5 percent to 55 percent of income up to a maximum of $1,800 per month. No change to other member fees.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	55.0%	$1,800
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care	Based on Level-of-Care

Annual Revenue: $183,000

3. Remove monthly member fee caps for all members (including current members). No change to the percent of income calculations.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	No Cap
RCFE	47.5%	No Cap
ICF	65.0%	No Cap
SNF	70.0%	No Cap
NVS	Based on Level-of-Care	No Cap

Annual Revenue: $1,340,000

California Department of Veterans Affairs
Member Fee Increase Optional Proposals
4/24/09

4. Establish a new percent of income fee structure with no cap for newly admitted members only. Existing members would be grandfathered in under the existing fee structure. No change to the existing NVS fee structure.

Level-of-Care	Percent of Income	Cap
DOM	65.0%	No Cap
RCFE	75.0%	No Cap
ICF	85.0%	No Cap
SNF	90.0%	No Cap
NVS	Based on Level-of-Care	No Cap

Annual Revenue: $545,000

5. Increase the member fee for the RCFE level-of-care from 47.5 percent to 55 percent of income up to a maximum of $2,180 per month. No change to other member fees.

Level-of-Care	Percent of Income	Cap
DOM	47.5%	$1,200
RCFE	55.0%	$2,180
ICF	65.0%	$2,300
SNF	70.0%	$2,500
NVS	Based on Level-of-Care	Based on Level-of-Care

Annual Revenue: $784,000

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, May 14, 2009
9:30 a.m. or Upon Adjournment
Room 112

Open Issues

"A" Agenda

Hearing Outcomes

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 Consent / Vote-Only

(See Consolidated Vote-Only Recommendation on page 2.)

1. April Finance Letter (FL): Fund Citizens Redistricting Initiative (Item 0911-001-0001; Issue 059). Consistent with the requirements of the "Voters FIRST Act" (Proposition 11), the Governor requests $3 million General Fund (GF) to support the efforts of the Citizens Redistricting Commission, the Secretary of State, and the Bureau of State Audits in carrying out their responsibilities as defined in the initiative. Per the requirements of Proposition 11, this appropriation would be available for three years.

Staff Comments. Due to revenue collections that have fallen well below projections (at least $2 billion) thus far in the fiscal year, the GF is not in a good position to support additional expenditures. However, Proposition 11 requires the Legislature to approve at least $3 million GF to support the Citizens Redistricting Initiative. Therefore, the Legislature has little choice but to approve this request.

2. April Finance Letter (Item 1100-001-0267; Issue 201). Increase item by $293,000 one-time from the Exposition Park Improvement Fund to provide additional funds for maintenance, repair and equipment at the African American Museum.

3. April Finance Letter (Item 1111-002-0582; Issue 202). Decrease Department of Consumer Affairs item by a net of $2,000,000 to reflect the reduced usage of vehicle retirement fund (-$3,975,000) and the increased usage of the vehicle repair assistance program ($1,975,000).

4. April Finance Letter (Item 1111-002-3122; Issue 201). Add new Department of Consumer Affairs item to establish the Enhanced Fleet Modernization Program (beginning April 1, 2010). Program is funded using special fund dollars and provides for off-cycle vehicle retirement and the issuance of vouchers for vehicle replacement.

Consolidated Staff Recommendation: APPROVE Vote-Only Items 1-4 above.

VOTE:

Action: Approved the staff recommendation for all 4 vote-only items on a 3-0 vote (Wright absent).

Items Proposed for Discussion

0502 Office of the State Chief Information Officer

The Office of the State 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). The 2009-10 Governor's Budget proposed $16.1 million ($10 million GF) and 68 positions for the department—an increase of $9.4 million ($5.8 million GF) and 34 positions. However, the Legislature withheld without prejudice $8.6 million ($5.8 million GF) and 34 positions from the 2009-10 budget bill adopted in February 2009.

DISCUSSION ITEMS:

1. BCP-1: Augment OCIO. The 2009-10 Governor's Budget proposed $6.4 million ($3.7 million GF) and 33 positions to staff newly created offices within the OCIO, including Legislative Affairs, Enterprise Architecture, Human Capital, Geospatial Services, and Project Management.

2009-10 Enacted Budget. Provides zero funding or position authority for this request.

Staff Comments. The requested resources were withheld without prejudice from the 2009-10 budget bill enacted in February 2009, and the Administration now indicates that most of the functions for which these positions were proposed will be carried out by staff formerly housed within the Department of Technology Services (which was recently consolidated under the OCIO pursuant to the Governor's Reorganization Plan No. 1). However, six of the positions requested have already been administratively established and funded from within existing resources, and the OCIO is requesting the Legislature to grant permanent position authority (and no additional funding). Staff has no concerns with the Administration's alternative proposal at this time.

Staff Recommendation: APPROVE the requested authority for six permanent positions (one Chief of Staff, one Data Processing Manager IV, one Data Processing Manager II, two Administrative Assistant IIs, and one Office Tech Typing).

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Wright absent).

2. BCP-2: Implement SB 1298—Linked Education Data Systems. The 2009-10 Governor's Budget proposed $2 million GF and one position to implement provisions of Chapter 561, Statutes of 2008 (SB 1298, Simitian) that require the OCIO to: (1) convene a working group to create a strategic plan that, among other things, provides an overall structural design for the linked education data system and examines the protocols and procedures to be used by state agencies in data processing; (2) deliver the strategic plan to the Legislature and the Governor by no later than September 1, 2009; and (3) form an advisory committee to the working group.

2009-10 Enacted Budget. Provides zero funding or position authority for this request.

Staff Comments. In light of the current fiscal crisis, and notwithstanding the intent of the Legislature in passing SB 1298, the GF is unable to support additional non-essential expenditures at this time. Therefore, staff recommends this proposal receive further consideration by the Subcommittee only in the event that the Administration can identify an alternative funding source.

Staff Recommendation: NO ACTION.

No Action. (The Administration withdrew the request and indicated it would be seeking federal grant resources to carry out the proposed activities.)

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency (BT&H Agency) is a member of the Governor's Cabinet and oversees 16 departments. In addition, the Secretary's Office oversees programs, including the Film Commission, which are budgeted directly in the Secretary's Office.

DISCUSSION ITEM:

1. FL-1: California Film Commission—Staffing for new tax credit. The Administration requests an augmentation of $644,000 General Fund (GF) and 5.0 positions (1.0 limited term) to administer the new film tax credit program created by SB 15XXX. The new film credit is a five-year program with credits capped at $100 million per year and is intended to retain film production in California and attract new film work to the state. Ten percent of the credits are reserved for independent films. The California Film Commission (CFC) will: (1) adopt regulations; (2) award credit allocations to qualifying productions; and (3) issue a credit certificate to the qualifying taxpayer at the end of production. Taxpayers would then use their credits on their tax return filed with the Franchise Tax Board (FTB).

Revised Administration Request. Since release of the April Finance Letter, the Film Commission has worked with the LAO and legislative staff to refine their proposal. After reexamining the funding need, the Administration now believes it could successfully implement the program with $417,000 GF and 3.5 positions (0.5 limited term) – this would be a reduction of $227,000 from the original proposal. The savings is both related to position savings and a lower estimate of information technology costs.

April 23, 2009, Subcommittee #4 Hearing. This issue was heard in Subcommittee #4 on April 23, 2009, and the issues was held open. The Subcommittee requested that the Film Commission continue to work with LAO and staff on funding justification, reporting, etc.

April 27, 2009, Assembly Budget Action. This issue was heard in Assembly Budget Subcommittee #4 on April 27, 2009, and that Subcommittee adopted the revised administration request plus additional reductions. The additional reductions were: (1) a reduction in 2009-10 funding for the staff services analyst by half since workload begins primarily when production companies submit their receipts for verification by commission when productions are completed – this position would be funded ongoing starting in the second half of the fiscal year; and (2) a reduction in outreach funding for the credit by half from $50,000 to $25,000 in 09-10 – by the passage of the budget, the first round of credit reservations will have already have been granted and there will only be a need to ramp-up outreach for the FY 10-11 grant process.

Additional Information from the Film Commission. As requested at the prior hearing, the Film Commission has provided additional data on film production in California and other states. To evaluate the success of the new credit program, the implementing legislation requires a report as follows:

(a) On or before December 31, 2015, the Business, Transportation and Housing Agency shall report to the Legislature on the economic impact of the tax incentives created by Sections 6902.5, 17053.85 and 23685 of the Revenue and Taxation Code, as added by this act. In preparing the report, the agency shall consider, but is not limited to considering, all of the following:

(1) The number and increase or decrease of qualified motion pictures produced in California.

(2) The amount of total qualified wages paid or incurred in California.

(3) The level of employment in the production industry in California.

(b) The agency may consult with the Employment Development Department, the Franchise Tax Board, the State Board of Equalization, representatives of industry and labor organizations, and agencies of local government before completing its report.

Staff Comments. While the new $500 million multi-year film tax credit will create a new workload for the Film Commission, it is a GF entity and cost must be kept to the bare minimum. The Assembly action appears to minimize costs but still retain for the Film Commission sufficient resources for successful implementation.

Staff Recommendation: Conform to the Assembly Action. (This action would provide about half the original $644,000 GF request.)

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Wright absent).

0957 California Pollution Control Financing Authority / 2240 Department of Housing and Community Development

The state Treasurer chairs a number of financing authorities, including the California Pollution Control Financing Authority (CPCFA), which acts as a “conduit issuer” of tax-exempt private activity bonds, in order to facilitate low cost financing to qualified waste and recycling projects.

The Department of Housing and Community Development (HCD) administers housing finance, economic development, and rehabilitation programs, and generally administers the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C).

DISCUSSION ITEM:

1. Informational Item: California Recycle Underutilized Sites (CALReUSE) Remediation Program. The Subcommittee has been made aware of a request by the CPCFA for $60 million from Prop 1C Infill Incentive Grant Program (IIG) funds.

CALReUSE. The CALReUSE Program assists with the reuse and redevelopment of underutilized properties with real or perceived hazardous material contamination issues—brownfields. CALReUSE has two components. The Assessment Program provides forgivable loans to assist with brownfield site assessments. The Remediation Program provides both grants and loans to lean up brownfields that will be redeveloped into mixed-use and residential developments.

Projects currently seeking CALReUSE financing include, among others, the Railyards (Sacramento), Hunters Point (San Francisco), Napa Pipe (Napa), and Boulevards at South Bay (Carson).

The Prop 1C funds would come from $850 million provided in that bond act in the Regional Planning, Housing, and Infill Incentive Account, subject to legislative appropriation and any criteria or conditions established by the Legislature in statute. Uses of the account may include "brownfield cleanup that promotes infill housing development and other related infill development consistent with regional and local plans."

Staff Comments.

1) The Legislature provided $60 million of Prop. 1C funds for CALReUSE in 2007. An additional $60 million was included in AB 7 X1, a bill amending the 2008 Budget Act, passed by the Legislature in December 2008, but vetoed by the Governor.

2) In February 2009, the Legislature adopted the Governor’s proposal to appropriate $190 million in local assistance and $2.6 million in state operations for the IIG. The HCD indicates that the $190 million contained in the enacted 2009-10 budget represents all of the non-committed funds remaining in the Prop 1C Infill Incentive Account. Although award allocations through the budget

year total only $790 million of the original $850 bond authority for the Infill program, the remaining $60 million is required to cover administrative costs (including the Treasurer's and the Pooled Money Investment Board's costs) and long-term monitoring of the program (e.g., ensuring the affordability of units for up to 55 years).

3) The CPCFA notes the following with respect to CALReUSE:

- There is an identified need of $152 million for projects (awarded and in the pipeline). Initially, CPCFA received 32 applications for projects requesting nearly $82 million in funding. After these initial projects were awarded [using the $60 million provided in 2007-08], there remains a known demand of an additional $98 million worth of eligible projects that are ready to commence construction in 2009.
- The initial $60 million [allocated in 2007-08] will:
  - o Assist in the creation of approximately 35,000 permanent jobs, 80,000 cleanup and construction jobs, and a minimum of 3,000 jobs indirectly with an overall economic impact of well over $33 billion; and
  - o Leverage tremendous private investment expected to exceed $7.6 billion (combined public/private investment to exceed $9.9 billion) to construct hundreds of acres of infill development.
- CALReUSE funding will assist in the creation of over 7,800 housing units directly and an additional 24,000 housing units indirectly. Of the 32 funded projects, 30 contain affordable housing.
- The Program makes efficient use of state money with an average per unit housing cost of $6,845 in CALReUSE dollars.

4) The HCD notes the following regarding the potential diversion of $60 million from the current Infill allocation:

> *Diverting funds to CalReUSE would directly reduce funds for infill housing development under the Infill Infrastructure Grant Program. On January 30, 2009, HCD released the $197 million NOFA [Notice of Funding Availability] for the Infill Infrastructure Grant Program. We have received about three times that dollar amount in funding requests. Clearly, there are a significant number of projects throughout the state that could [use the money], through the Infill Infrastructure Grant Program should the funding be made available to that program. While it is appropriate to mitigate past environmental damage, the use of the limited housing funding should be prioritized for programs that provide housing unit development as directly and efficiently as possible.*

Committee Questions. Based on the above, the Subcommittee may wish to ask some or all of the following questions:

- Is the CPCFA seeking a redirection of funds already appropriated to HCD (in other words, a $60 million carve out of the $190 million currently contained in the 2009-10 budget bill adopted in February), or is the CPCFA seeking the Legislature to commit Infill dollars that would otherwise be used to protect the affordability of Prop 1C-funded housing? If the latter, then how does the

CPCFA propose the state protect its multi-million dollar investment in affordable housing?

- Can the CPCFA demonstrate that the marginal Infill dollar spent on CALReUSE projects produces more benefit (e.g., more, and more affordable, housing) than the alternative use in the Infill Infrastructure Grant Program?
- The HCD currently has a Notice of Funding Availability on the street for $197 million, and has identified three times that amount in project applicants. How quickly could the CPCFA disburse awards?
- Are there any federal stimulus monies available to the CALReUse Program?

Staff Recommendation: NO ACTION—informational only.

No Action. The Committee requested the HCD provide additional detail on its administrative and monitoring costs and the implications/risks if bond funds are not set aside now for out-year costs. All parties were asked to continue to examine the issue in order to identify any Prop 1C Infill funding currently designated for HCD administrative and monitoring costs that might be made available for CALReUSE purposes.

2240 Department of Housing and Community Development

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

The Governor proposes $803.3 million ($9.4 million GF) and 595.3 positions for the department—a decrease of $340 million (30 percent) and an increase of 1.5 positions.

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $548 million (excluding administrative costs) in funding from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C)—a decrease of approximately $180 million from 2008-09 due to the pending exhaustion of the bond funds. The HCD also continues to transfer positions funded from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) to Prop 1C activities as all remaining funds available under Prop 46 are projected to be awarded by the end of the current fiscal year.

The second largest revenue source is federal funds, estimated at $178 million in 2009-10, which is about $139 million less than 2008-09, when California received $140 million for the Neighborhood Stabilization Program under the American Housing Rescue and Foreclosure Prevention Act of 2008 (HR 3221). Remaining expenditures of about $77 million are covered by the GF ($9.4 million), fees, and other miscellaneous revenues.

VOTE-ONLY ITEM:

FL-1: American Recovery and Reinvestment Act of 2009 (ARRA). The HCD estimates the state may be eligible to receive various ARRA funding on a one-time basis only, and requests an augmentation in federal expenditure authority of $129 million in local assistance for fiscal year 2009-10. The funding would be allocated as follows:

- Community Development Block Grant (CDBG) $10.7 million
- Homeless Prevention and Rapid Re-Housing Program (HPRP) via the Federal Emergency Shelter Grant (FESG) $44.5 million
- Neighborhood Stabilization Program (NSP) $74.0 million

The HCD notes that California will have to compete for NSP funding; therefore, the $74 million is an estimate only.

Staff Comments. This item was heard previously on April 23, 2009, and held open in order to allow time for the federal government to release guidelines for the NSP. Based on those guidelines, the HCD does not anticipate the need to substantially alter the request described in this finance letter.

Staff Recommendation: APPROVE as budgeted.

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Wright absent).

DISCUSSION ITEMS:

1. BCP-5: Employee Housing Program. The Governor requests a suspension of the HCD's responsibilities under the Employee Housing Act by eliminating all remaining funding ($231,000 in reimbursements supported by fee revenue) and positions (9). Additionally, the Administration proposes trailer bill language (TBL) to suspend the HCD's administrative and enforcement responsibilities when, in any given year, the department is not funded for the responsibility.

2009-10 Enacted Budget. Restored the $231,000 reimbursement authority deleted in the Governor's Budget and did not implement the Governor's requested statutory changes.

Staff Comments. This item was heard previously on April 23, 2009, and held open due to concern that the Governor's proposal—for the HCD to abandon inspections of employee housing—could place the health and safety of employee housing residents at risk if local governments fail to voluntarily assume responsibility for the inspections. As previously noted, if the Subcommittee wishes to ensure some minimum level of inspections occurs, there are two primary options:

1. Require local governments to conduct the inspections using the fee authority provided in existing statute to support their efforts (the LAO recommendation); or
2. Increase state fee limits in order to generate enough revenue for the HCD to continue a credible program of inspections.

Staff notes that Option #1 would eliminate the need for the state to maintain an inspection presence throughout the state, and would instead place the responsibility within the affected communities. However, staff notes that returning inspection responsibilities to the locals, whether mandated or not, raises at least two concerns. First, most local governments do not have the same level of experience as the HCD in carrying out this program; and, second, local governments could come under significant political pressure to maintain a less than aggressive oversight of employee housing. Either way, the HCD would no longer be in the business of monitoring the locals who run their own inspection programs (as is currently the case). The excerpt below, taken from the HCD's Employee Housing Program 2007 Statistical Summary, provides an example of the types of deficiencies that could go overlooked if the state pulls back from this responsibility:

> ***Tulare County Resource Management Agency program received an "improvement needed" with substantial deficiencies observed.***
>
> > ***Deficiencies noted:***
> > ***• Applications for Permits to Operate had no dates to confirm when the renewal forms were sent.***

• Records do not account for numerous missing, but paid for, Permits to Operate, nor do they show if these facilities were inspected.
• Only two out of 28 facilities found to be operating without a permit were inspected.
• As a result of the low number of violations cited compared to the number of older facilities, it was recommended that additional monitoring and training be conducted to insure compliance with applicable Sections of the Health & Safety Code.

The Subcommittee could opt to maintain a state fee (on top of a local fee) for the purpose of continuing state oversight of local enforcement agencies. Or, rather than maintaining two separate fee structures to provide statewide “overseers for the overseers,” the Subcommittee might simply wish to consider raising fees to maintain a lean, but credible enforcement capability at the HCD.

Based on the Subcommittee’s request for technical assistance on how to maintain a state-run inspection program, the HCD has provided the menu of fee options contained in Appendix A. The inspection levels reflected are based on 447 facilities statewide, and 14,160 beds/lots, and assume that the HCD would respond to all complaints and continue to issue all permits to operate. The following is provided for frame of reference:

- The first row in Appendix A reflects current service levels (inspections of approximately 75 percent of all housing, and employer fees (a flat $35 permit-to-operate fee and $12 per employee (bed)). These fees were last adjusted over two decades ago.
- Adjusting the extisting fee levels by the Consumer Price Index (CPI) for 20 to 30 years, produces the following estimated fee ranges:

	Current	**CPI-Adjusted Range**
Permit-to-Operate Fee	$35	$55 - $75
Per-Employee Fee	$12	$20 - $30

- Among locals who currently conduct their own inspections, five counties charge the same per-employee fee as the state ($12), with the highest fee at $20. Meanwhile, four counties charge the same permit-to-operate fee as the state ($35), three are under $50, and only Monterey ($77), Tulare ($200) and Santa Cruz ($362) are significantly above the HCD fee level.

Staff notes that HCD staff were unable to assess the ability of employers to pay various fee levels (i.e., identify a level that would constistute a burden), so staff suggests that, if it wishes to keep a lean but credible state inspection program, the Subcommittee should work between the above frames of reference and the menu of options in Appendix A to identify a reasonable fee level that meets its policy goals.

Staff Recommendation: Adopt placeholder trailer bill language to increase the permit-to-operate fee to $200 (similar to Tulare County) and the per-employee fee to $27 (consistent with the range of CPI-adjusted estimates above) in order to allow the HCD to maintain oversight of local enforcement agencies and complete inspections of at least 25 percent of the highest priority employee housing.

VOTE:

Action: Approved the staff recommendation on a 2-1 vote (Harman—"no"; Wright absent).

2. BCP-7: Codes and Standards Fee Increase – Mobilehome Parks. The Governor proposes the following changes to the HCD's Codes and Standards Program (including trailer bill language—TBL) in order to address a steady decline in revenues from several sources over the past several years:

- Increase the registration fee for manufactured housing, mobilehomes, and commercial modulars from $11 to $23;
- Increase the permit-to-operate fee for mobilehome parks from $25 to $140;
- Increase the per-lot fee in mobilehome parks from $2 to $7;
- Provide a $2.1 million loan from the Mobilehome Park Purchase Fund (Purchase Fund) to the Mobilehome-Manufactured Home Revolving Fund (Mobilehome Fund);
- Reduce programs supported by the Mobilehome Fund by $4.1 million and 18.6 positions;
- Reduce programs supported by the Mobilehome Park Revolving Fund (Park Fund) by $122,000 and 3.4 positions.

2009-10 Enacted Budget. Included the proposed expenditure adjustments, but not the TBL adjusting fee levels.

Staff Comments. This item was heard previously on April 23, 2009, and held open due to concerns that the Governor's proposal to decrease the number of mobilehome inspectors, while increasing fees, would result in residents and park owners paying more for less service. However, in the interim, the HCD has provided additional data to suggest that the drop-off in new construction inspections due to the declining real estate market has more than cancelled out the increase in complaint workload. Therefore, despite the proposed reduction of six inspectors, fee-payers should be able to anticipate service levels as least as high as 2006-07.

Staff notes no further concerns with this proposal at this time, but suggests that the Subcommittee may wish to consider requiring the HCD to track complaint response and resolution times in order to better inform future decisions about the number of inspectors required by this program.

Staff Recommendation: APPROVE as budgeted (including the proposed TBL).

VOTE:

Action: Approved the staff recommendation on a 3-0 vote (Wright arrived during vote and therefore was not recorded).

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 $45.3 million (no General Fund) in total expenditures and 336 positions for the Department – an increase of approximately $600,000 and zero positions.

DISCUSSION ITEM:

1. BCP-2: Sacramento Headquarters Office Relocation. The DRE requests a one-time augmentation in the amount of $1 million (one-time) to partially cover the estimated costs ($1.3 to $1.5 million) to relocate and consolidate its downtown Sacramento Headquarters Office and Examination Center at a new location. The requested funds would not only pay for moving expenses, but telephone and data expenses, supplies, and new modular furniture (estimated at $1 million).

Staff Comments. This item was heard previously on April 23, 2009, and held open due to concern that the proposed increase in expenditures ($1 million in budget year expenditures with an increase of at least $1.5 million annually in the out years) would be imprudent at a time when there is already a significant imbalance between DRE revenues and expenditures. As staff noted at that time, even accounting for the department's plan to increase fees to their statutory maximum effective July 1, 2009, this proposal would put the DRE on course to spend approximately 25 percent more than it takes in over the next several years. Barring further action, the Real Estate Fund would become insolvent in fiscal year 2012-13 without the repayment of a $10.7 million GF loan, which would only prolong insolvency an additional year or repaid.

While the DRE is currently conducting a comprehensive fee study in order to better align its fee levels with operational cost centers, there is insufficient information available at this time for staff to verify that the results of that study will enable the DRE to support the requested level of expenditures. Therefore, notwithstanding the DRE's justification for the need to relocate its HQ and its contention that acting now would allow the state to secure a low long-term lease in a soft commercial market, staff cannot recommend approval of additional deficit spending at this time. The Committee may wish to encourage the DRE to resubmit this request with a complete plan for addressing the Real Estate Fund condition with the 2010-11 Governor's Budget.

Staff Recommendation: DENY the request.

VOTE:

Action: Approved the staff recommendation on a 4-0 vote. However, the Chair extended the opportunity for reconsideration, and asked that the DRE provide additional information to staff regarding the department's contention that a move from its current location would be absolutely necessary before the end of the 2009-10 fiscal year.

Appendix A – Employee Housing Program Scenarios (1 of 2)

# of Yrs between inspec-tions	% of Housing Inspected	Annual Report .5=Yes 0=No	Monitor LEAs .5=Yes 0=No	Total # of Inspection DRs	Total # of DRs	Total # of PTs	Total # of PYs	Total Annual Cost of PYs	PTO Fee (current fee = $35)	BL Fee (current fee = $12)	Total Revenue Earned Annually	Difference of PY Costs and **Revenue Earned**
1*	75.00%	Yes	Yes	6.00	7.00	2	9.00	$1,221,888	$35	$12	$185,565	$1,036,323
1	75.00%	Yes	Yes	6.00	7.00	2	9.00	$1,221,888	$900	$58	$1,223,580	-$1,692
1	75.00%	No	No	6.00	6.00	1	7.00	$984,854	$500	$54	$988,140	-$3,286
2	37.50%	Yes	Yes	3.00	4.00	1	5.00	$685,726	$335	$38	$687,825	-$2,099
2	37.50%	No	No	3.00	3.00	1	4.00	$536,162	$300	$29	$544,740	-$8,578
2	37.50%	No	Yes	3.00	3.50	1	4.50	$610,944	$325	$33	$612,555	-$1,611
3	25.00%	Yes	Yes	2.00	3.00	1	4.00	$536,162	$300	$29	$544,740	-$8,578
3	25.00%	No	No	2.00	2.00	1	3.00	$386,598	$150	$23	$392,730	-$6,132
3	25.00%	No	Yes	2.00	2.50	1	3.50	$461,380	$200	$27	$471,720	-$10,340
4	18.75%	Yes	Yes	1.50	2.50	1	3.50	$461,380	$200	$27	$471,720	-$10,340
4	18.75%	No	No	1.50	1.50	1	2.50	$311,816	$150	$18	$321,930	-$10,114
4	18.75%	No	Yes	1.50	2.00	1	3.00	$386,598	$150	$23	$392,730	-$6,132

*Reflects historic staffing levels

Index

BL (Beds/Lots)	DR (District Representative)	LEA (Local Enforcement Agency)	PT (Program Technician)	PTO (Permit to Operate)	PY (Personnel Year)

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mark DeSaulnier, Chair
Senator Tom Harman
Senator Gloria Negrete McLeod
Senator Roderick Wright

Thursday, May 14, 2009
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

Part B - Open Issues

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

Vote Only Items

	Issue	2009-10 Amount	Fund Source
	California Emergency Management Agency (0690)		
1	Tsunami Program	$690,000	Federal
2	Transit Security Bond - Fund Transfer	$0	Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006
3	Transfer of Office of Gang and Youth Violence Policy	$10,682,000	General, Restitution
4	Southern Regional Facility	$1,857,000	Federal
5	Nuclear Planning Program	TBL	
6	Disaster Services Workers	TBL	
	California Gambling Control Commission (0855)		
1	Provisional Language	BBL	
	California Department of Corrections and Rehabilitation (5225)		
1	Technical Adjustment	$0	General
2	Youthful Offender Block Grant quarterly payments	TBL	
3	Youthful Offender Block Grant reporting requirement	TBL	
4	Overtime reporting requirements	BBL	
5	Population budgeting methodology	BBL	
6	CIW - 20 Bed Psych. Services Unit - capital outlay	$704,000	General
7	CRC - Install Bar Screen - capital outlay	-$959,000	General
8	SCC - Effluent Disposal System - capital outlay	-$4,851,000	General
9	MCSP - Wastewater Treatment Plant - capital outlay	-$5,072,000	General
10	ISP - Heating, Ventilation, and Air Conditioning - capital outlay	-$9,192,000	General
11	DVI - Minimum Support Dining Facility - capital outlay	-$896,000	1988 Prison Construction GO Bond
12	Infrastructure Improvements (AB 900) - *reappropriation*	$264,353,000	General
13	DVI - Groundwater Treatment - *reappropriation*	$3,673,000	General
14	FSP - Renovate Branch Circuit Wiring - *reappropriation*	$1,718,000	General
15	CIW - 20 Bed Psych. Services Unit - *reappropriation*	$683,000	General
16	CRC - Install Bar Screen - *reappropriation*	$113,000	General
17	SVSP - 64 Bed Mental Health Facility - *reappropriation*	$6,230,000	Public Buildings Construction
18	PVSP - Bar Screen/Bar Lift - *reappropriation*	$1,404,376	1990 Prison Construction Bond

California Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates six juvenile correctional facilities, including two reception centers. In addition, CDCR manages 13 Community Correctional Facilities, about 50 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 adult and juvenile parole offices, as well as houses inmates in 6 out–of–state correctional facilities.

Budget Overview. The 2009-10 General Fund budget for CDCR is $9.8 billion, primarily for adult prison operations. This total is a decrease compared to the current year, primarily because of an unallocated 10 percent reduction to the Receiver's medical budget, as well as an unallocated $400 million veto by the Governor. Overall, General Fund spending on corrections has more than doubled over the past decade, and CDCR's budget now makes up about 11 percent of total state General Fund spending.

Issue 1 – Mental Health Crisis Beds at California Medical Facility and San Quentin

Background. The Mental Health Program Guide requires that an inmate suffering from an acute, serious mental disorder resulting in serious functional disabilities, or who is dangerous to self or others, be transferred to a Mental Health Crisis Bed Unit (MHCBU). If an inmate is housed in an institution that does not have an MHCBU, or if all MHCBU beds are filled at that institution, the inmate will be transferred to an institution with an available MHCBU bed. The MCCBU is part of the Mental Health Services Delivery System and is monitored by the *Coleman* court.

Per the Mental Health Program Guide, an inmate must be transferred to a MHCBU within twenty-four hours of referral. Currently, there are 336 mental health crisis beds located at 20 institutions. The average wait list for admission to a MHCBU is about 20 inmates at any given time.

Governor's April Finance Letters. The administration offers two April Finance Letter proposals to increase permanent staffing for MHCBU's. The administration proposes to add $4.6 million and 43.5 positions in additional permanent staffing for the 50-bed MHCBU at the California Medical Facility (CMF) in Vacaville. This is in addition to 135 positions that were approved in the budget enacted in February.

The administration also proposes $3.6 million and 26.6 positions to staff a new 20-bed MHCBU at San Quentin State Prison.

	California Medical Facility	**San Quentin**
General Fund	$4,600,000	$3,587,000
Positions	43.5	26.6

Staff Comments. Both of these facilities are staffed consistent with the Mental Health Workload Study which is intended to specify the necessary and appropriate staffing level for mental health treatment units in state prisons. Approval of these MHCBUs will allow the state to come closer to meeting the requirements of the *Coleman* court for the provision of constitutionally adequate mental health services to inmates. However, representatives of the plaintiffs in the *Coleman* case informed staff that they have raised concerns with the adequacy of the staffing levels designated in the Mental Health Workload Study, and that the Study may provide inadequate staffing levels for the department's inmate mental health program. The committee may want to ask the department what steps it has taken to address the concerns of the court regarding the adequacy of the Mental Health Workload Study.

Staff Recommendation. Approve both requests.

Staffing these two MHCBUs will allow the department to better meet the court-mandated treatment levels for seriously mentally ill inmates. The MHCBU at CMF has been in activation for about one year. The existing staff positions at this MHCBU were previously approved on a limited term basis to allow the department to identify the appropriate staffing complement consistent with the Mental Health Workload Study. This request, in combination with the positions approved in the February enacted budget, will provide permanent position authority at about the same level as currently approved (though there is some change in the compliment of positions requested). Therefore, there is no significant increase in costs for the CMF MHCBU compared to the current year. The MHCBU at San Quentin is new.

Issue 2 – Budget Bill Language: Division of Juvenile Justice Reforms

Background. The CDCR is currently enacting various reforms to revise staffing standards within DJJ which were established by the court in the *Farrell v. Cate* lawsuit. The reforms would streamline DJJ's operations, thereby resulting in General Fund savings. The CDCR does not expect to achieve significant savings from these reforms until fiscal year 2010-11. However, it is possible that some level of savings could be achieved in 2009-10 depending on when specific reforms are enacted.

Governor's May Finance Letter. The administration proposes Budget Bill Language to authorize the Department of Finance to reduce appropriations in DJJ based on savings identified by CDCR related to the reforms to be implemented.

Staff Comments. Given numerous changes in the population levels and staffing compliments in DJJ facilities, it is reasonable that the department may be able to achieve budget savings in this area. However, without a current housing and staffing plan in place, it is unclear what these changes will include. It is possible, for example, that the staffing changes could include consolidation of wards in fewer juvenile facilities, necessitating facility closures or repurposing. Given the potential for significant programmatic staffing and facility changes, it is appropriate for the Legislature to have the opportunity to review CDCR's plans before it attempts to implement such changes.

Staff Recommendation. Approve modified version requiring notification to the Joint Legislative Budget Committee prior to the enactment of any budget reductions.

Issue 3 – Budget Bill Language: General Fund Reversions

Background. The Budget Act of 2008 contained provisions in Item 5225-001-0001 and Item 5225-002-0001 that restricted appropriations for specific programmatic and operational purposes specified in that year's supplemental report. These provisions specified that any unspent funds were to revert to the General Fund. Similar language was not included in the budget enacted in February for 2009-10.

Staff Comments. These provisions and supplemental reporting increase accountability by ensuring that resources provided by the Legislature for specific programs and activities are not diverted to other purposes.

Staff Recommendation. Approve the addition of budget bill language and supplemental reporting that reverts to the General Fund any unspent amount of General Fund resources provided to the CDCR for specified purposes in fiscal year 2009-10 in items 5225-001-0001 and 5225-002-0001.

Issue 4 – CSP-Sac Enhanced Outpatient Treatment and Office Space (Capital Outlay)

Background. In the current year budget, the Legislature approved preliminary plans for the conversion of a warehouse at the California State Prison – Sacramento (CSP-Sac) to office and treatment space for the institution's mental health program. Funding for working drawings ($1.1 million) is currently included in the 2009-10 budget.

Governor's May Finance Letter. The administration proposes two changes to funding for this project. First, the department proposes to reduce funding for working drawings by $194,000 based on updated cost estimates. Second, the administration proposes to include funding for the construction phase of this project based on the current estimate that this work could begin in February 2010. The addition of construction funding would add $13,174,000 in General Fund costs in the budget year.

Staff Comments. The advancement of construction funding to the budget year would allow the department to begin and probably complete this project about four months earlier than if construction funding were not included until the 2010-11 budget year. Completion of this project will help the department meet the needs of the *Coleman* court for the improvement of mental health treatment for state inmates. However, beginning the construction phase of this project during the budget year will increase budget year General Fund costs by $13.2 million. Given the projection of ongoing budget year shortfalls, the Legislature will need to consider whether the state budget should include plans to advance the construction of this project by four months into the budget year at a cost of $13.2 million in the budget year.

Staff Recommendation. Hold open.

Issue 5 – CTF, DVI, and FSP Solid Cell Front Projects (Capital Outlay)

Background. Generally, all state prisons have administrative segregation units, commonly referred to as "adseg." These adsegs are used to house inmates who need to be removed from the general population. Typically, this occurs when an inmate is assaultive or commits other in-prison violations. An inmate can also be housed in adseg for his or her own protection. Over the past several years, the department has been replacing barred cell doors at adsegs with solid cell doors that provide better safety for staff who approach or pass by these cells. The Governor proposed the initiation or continuation of three such projects in January. However, the 2009-10 budget enacted by the Legislature did not include these projects, instead deferring these projects until 2010-11.

Governor's April Finance Letters. The administration proposes the same three projects previously proposed but not included in the enacted 2009-10 budget. In total, these three projects would cost $6.6 million (General Fund) in the budget year.

	Amount	Phase
Correctional Treatment Facility	$6,030,000	Construction
Deuel Vocational Institution	$374,000	Working drawings
Folsom State Prison	$231,000	Preliminary plans
Total	***$6,605,000***	

Staff Comments. The Legislature has previously supported the conversion of adseg doors to solid cell fronts for the protection and safety of staff who can be easily assaulted by inmates in adseg cells with barred doors. While these projects are worthwhile and would serve to better protect staff working in these facilities, it may be necessary to postpone these projects given the ongoing budget shortfall currently projected.

Staff Recommendation. Hold open.

Senate Committee on Budget and Fiscal Review, Subcommittee No. 4 on State Administration, General Government, Judicial and Veterans Affairs
Senate Committee on Public Safety

MENTAL HEALTH TREATMENT IN THE DIVISION OF JUVENILE JUSTICE: QUALITY, COSTS AND OUTCOMES

November 30, 2009
State Capitol
John L. Burton Hearing Room (4203)
10:00 – 1:00 pm

I. ***Welcome and Introductions*** 10 minutes

- Sens. DeSaulnier and Leno
- Members of the Committees

II. ***The Quality of Mental Health Services in State-Run Juvenile Facilities*** 60 minutes

- Eric W. Trupin, Ph.D., Mental Health Expert in *Farrell;* University of Washington School of Medicine, Professor and Vice-Chairman, Department of Psychiatry and Behavioral Sciences; Director, Division of Public Behavioral Health and Justice Policy
- Sara Norman, Plaintiff's Counsel, *Farrell v. Cate*
- Kim Sutterfield, Ph.D., Staff Psychologist, Division of Juvenile Justice
- Dr. Ed Morales, Chief Psychiatrist, Division of Juvenile Justice
- Michael Brady, Chief of Court Compliance, Division of Juvenile Justice

III. ***Dollars and Sense***: ***Cost Considerations in Operating DJJ Facilities*** 30 minutes

- Drew Soderborg, Fiscal and Policy Analyst, Legislative Analyst's Office
- Andrea Scharffer, Finance Budget Analyst, Department of Finance
- David Lewis, Deputy Director, Office of Fiscal Services, CDCR

IV. ***Reducing Costs and Improving Outcomes at DJJ: Reform Recommendations for 2010*** 60 minutes

- Barry Krisberg, Ph.D., Safety and Welfare Expert in *Farrell*; President, National Council on Crime and Delinquency
- David Steinhart, Director, Commonweal Juvenile Justice Program
- Bernard Warner, Chief Deputy Secretary, Division of Juvenile Justice
- Craig Brown, legislative advocate, CCPOA

V. ***Public Comment*** 20 minutes