Senate Budget and Fiscal Review

Subcommittee No. 4 2010 Agendas

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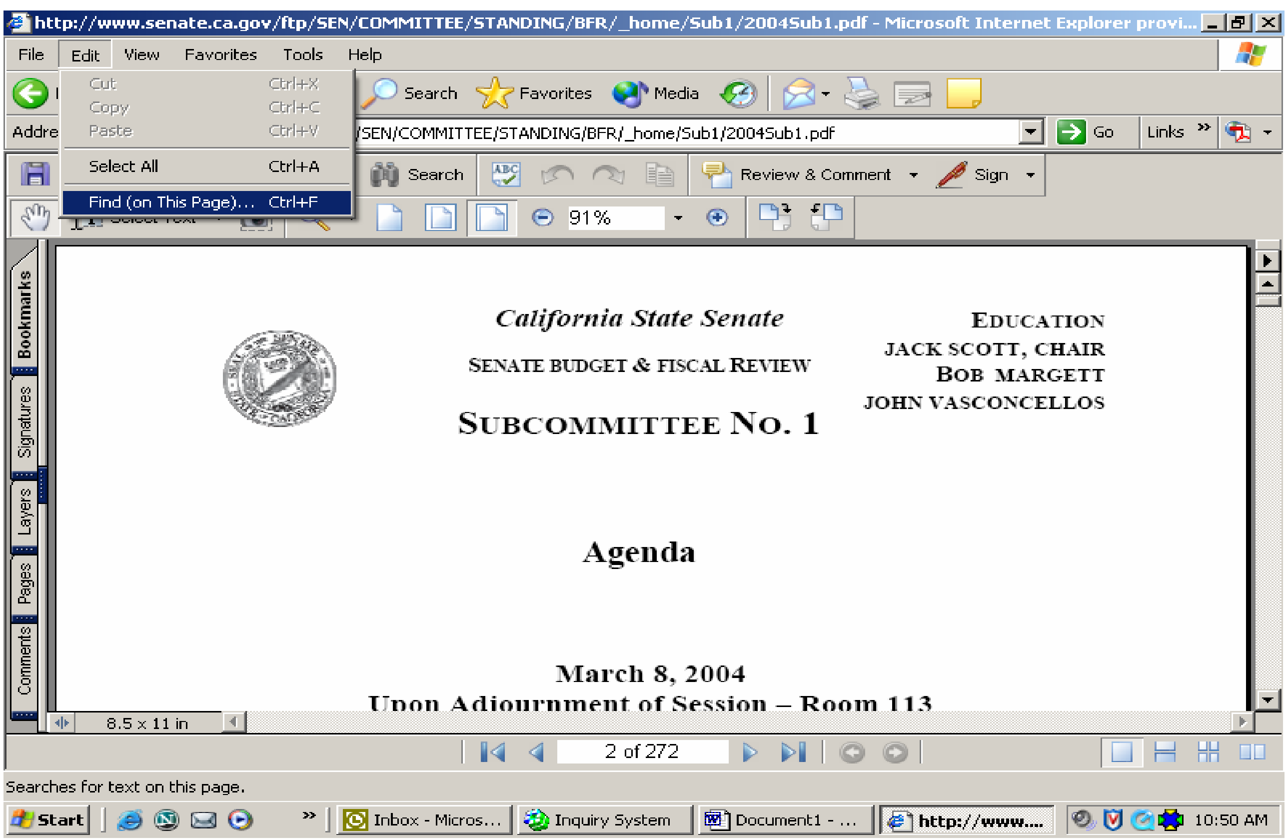

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, January 7, 2010
10 a.m. or upon adjournment of session
Room 3191

Consultant: Brian Brown

Informational Hearing on Recent Auditor Reports on the Fiscal Operations of the California Department of Corrections and Rehabilitation

<u>Attachments</u>
(1) *CDCR Payments to Special Masters and Plaintiffs' Attorneys*, Executive Summary

(2) *CDCR: Its Poor Internal Controls Allowed Facilities to Overpay Employees for Inmate Supervision*, Fact Sheet

(3) *CDCR: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations*, Summary

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Hearing Agenda

1. Welcome and Introductions .... 10 minutes

2. Overview of the Fiscal Context in CDCR .... 10 minutes
    - Paul Golaszewski, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
    - Aaron Edwards, Fiscal and Policy Analyst, Legislative Analyst's Office

3. *CDCR Payments to Special Masters and Plaintiffs' Attorneys* (OIG, 12/09) .... 20 minutes
    - David Shaw, California Inspector General, Office of the Inspector General
    - Jerry Twomey, Chief, Bureau of Audits and Investigations, Office of the Inspector General
    - Laura Hill, Special Advisor to the Inspector General, Office of the Inspector General
    - Ben Rice, General Counsel, California Department of Corrections and Rehabilitation
    - Dave Lewis, Deputy Director, Budgets, California Department of Corrections and Rehabilitation
    - Don Spector, Director, Prison Law Office

4. *CDCR: Its Poor Internal Controls Allowed Facilities to Overpay Employees for Inmate Supervision (*BSA, 11/09) .... 20 minutes
    - Elaine Howle, California State Auditor, Bureau of State Audits
    - Lee Seale, Deputy Chief of Staff, California Department of Corrections and Rehabilitation
    - Dave Lewis, Deputy Director, Budgets, California Department of Corrections and Rehabilitation

5. *CDCR: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations* (BSA, 9/09) .... 20 minutes
    - Elaine Howle, California State Auditor, Bureau of State Audits
    - Lee Seale, Deputy Chief of Staff, California Department of Corrections and Rehabilitation
    - Dave Lewis, Deputy Director, Budgets, California Department of Corrections and Rehabilitation

6. Public Comment .... 10 minutes

SPECIAL REVIEW

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S PAYMENTS TO SPECIAL MASTERS AND PLAINTIFFS' ATTORNEYS

OFFICE OF THE INSPECTOR GENERAL

DAVID R. SHAW
INSPECTOR GENERAL

STATE OF CALIFORNIA

DECEMBER 2009

Executive Summary

This report presents the results of a special review the Office of the Inspector General (OIG) conducted into the payments made to court-appointed special masters and experts, as well as plaintiffs' attorneys by the California Department of Corrections and Rehabilitation (the department) on various class action lawsuits. The report provides insight into the significant ongoing external legal costs associated with these lawsuits, but does not address the costs for the department's own legal staff or private attorneys hired by the department, the costs to implement the provisions of the settlements, or the cost of other litigation in suits filed by individual inmates, their families, or employees. Our purpose in conducting this review is to provide the department and its stakeholders with a snapshot of the significant legal costs associated with its ongoing litigation in federal and state courts. We conducted this review under the authority of California Penal Code section 6126, which assigns the OIG responsibility for oversight of the California Department of Corrections and Rehabilitation.

The review revealed that the department paid court-appointed special masters, experts, and plaintiffs' attorneys $108 million since 1997 to cover costs associated with 12 major lawsuits. Further, the state spent an additional $23.8 million for the Attorney General's Office to defend the department in these 12 lawsuits. The 12 lawsuits filed on behalf of inmates alleged serious mismanagement by the department and concerned various issues, including access to medical, dental, and mental health care, the constitutionality of parole revocation, and the violation of inmates' rights under the Americans with Disabilities Act. Moreover, there are no indications that most of these lawsuits will end anytime soon.

Through our review, the OIG also determined the following:

- **The annual payment amounts associated with these cases have steadily increased over the past 12 years.** The department paid just over $2.4 million for legal fees and monitoring costs in fiscal year 1997–98. However, by fiscal year 2007–08, the department paid $15.4 million, and during fiscal year 2008-09, legal fees and monitoring costs exceeded $16.2 million. This dramatic increase is due to new settlements and judgments, the continued implementation of various court orders, and the ongoing monitoring by plaintiffs attorneys, special masters, and experts.

- **Department attorneys conduct a limited review of invoices submitted by the plaintiffs' attorneys to identify objectionable costs.** These reviews result in cost savings averaging about four percent. If this rate applies proportionally to all $66 million of plaintiffs' attorney payments since July 1997, questionable costs would be approximately $2.6 million. However, some of these cost savings are only temporary because the plaintiffs' attorneys also bill the state for the hours spent negotiating revisions to each invoice. Therefore, some portion of the cost reduction eventually results in an overall increase in hours billed on future invoices.

Department attorneys do not review special masters or court experts' invoices because those invoices go directly to the court, and the department is not given an opportunity to review those invoices prior to payment.

- **The department's efforts to detect billing errors or questionable costs are limited because the plaintiffs' attorneys do not provide invoices in a usable electronic format.** The department reviews legal invoices to identify billing errors or questionable costs. However, this review is limited because plaintiffs' invoices are not submitted in an electronic format that would allow a more extensive review. Consequently, the department has difficulty identifying duplicate billings and other errors. The department filed a motion in October 2008 on the *Armstrong* case requesting electronic billings from the plaintiffs' attorneys, but the department has not yet received any documents in a usable format.

- **Hourly rates for the plaintiffs' attorneys varied significantly depending on whether federal legal fee limits applied.** The federal Prison Litigation Reform Act (PLRA) places a cap on the fees that plaintiffs' attorneys can charge the state. Attorneys are allowed to bill an hourly rate of $169.50 for cases governed by the PLRA. However, the plaintiffs' attorneys can bill at the market rate for cases not governed by the PLRA. For instance, in *Farrell* the plaintiffs' attorneys charged rates as high as $615 an hour, with an average of $418.53 an hour, and in *Armstrong* the attorneys charged rates as high as $640 an hour, with an average of $420.85 an hour. In comparison, the Attorney General's Office, which represents the state in these lawsuits, billed the department at a rate of $158 an hour.

- **In some cases, the plaintiffs' attorneys are monitoring the progress of the department's corrective action.** Although we found no evidence of an actual conflict, we have concerns that plaintiff' attorneys acting as monitors create both the appearance of a conflict, as well as the potential for actual conflict.

- **Prior to September 2009, the courts had not ruled that the PLRA limit applied to legal assistants or paralegals.** The plaintiffs' attorneys billed the state for paralegal services at the market rate. In *Coleman*, the average paralegal billing rate was $172.62 an hour in 2008. This paralegal rate was higher than the PLRA capped hourly rate of $169.50 for licensed attorneys and higher than the $158 hourly rate that the department pays for attorneys from the Attorney General's Office. In contrast, the Attorney General's Office billed the state $101 an hour for paralegals.[1]

[1] Effective January 1, 2009, the PLRA billing rate for attorneys increased to $177 per hour. In addition, on July 1, 2009, the Attorney General's Office increased its rate for attorneys to $170 per hour and its rate for paralegals to $120 per hour.

As a result of this special review, the Inspector General made three recommendations to the Secretary of the California Department of Corrections and Rehabilitation. First, the department should support state legislation similar to the PLRA to limit the reimbursement rate for plaintiffs' attorneys and paralegals for inmate litigation cases filed in state court. Second, the department should continue its efforts to obtain invoices from plaintiffs' attorneys in a format that can be analyzed electronically by the department in order to identify billing errors. Lastly, the department should request the court to appoint a monitor other than the plaintiffs' attorneys in order to reduce the potential conflict of interest that exists when attorneys monitor cases in which they also litigate.

Department's Response

The department concurs that the costs associated with major litigation is a significant issue and it appreciates the OIG for bringing this matter to the public's attention. The department further states that it is making every effort to rein in these costs. For example, the department announced its success in terminating the class action lawsuit in *Lancaster v. Tilton*, and hopes to soon end the lawsuits of *Clark v. California* and *Gilmore v. California*. The department also states it will work to reduce the costs of court monitoring and is committed to ensuring the responsible expenditure of state funds.

CALIFORNIA STATE AUDITOR
Elaine M. Howle, State Auditor

FACT SHEET

Date: **November 17, 2009** **Report: I2009-0702**

The California State Auditor released the following report today:

Department of Corrections and Rehabilitation

Its Poor Internal Controls Allowed Facilities to Overpay Employees for Inmate Supervision

BACKGROUND

The California Whistleblower Protection Act authorizes the Bureau of State Audits (bureau) to investigate allegations of improper governmental activities by agencies and employees of the State. After an earlier investigation by the bureau revealed that the Department of Corrections and Rehabilitation (Corrections) made improper payments to a particular class of employees for supervising inmates at one correctional facility, we launched an investigation to determine whether it also made such payments to additional classes of employees at other correctional facilities. To qualify for inmate supervision pay, employees must supervise at least two inmates who replace civil service employees for a specified number of hours.

KEY FINDINGS

Our investigation of inmate supervision payments revealed that Corrections:

- Overpaid 23 employees a total of $34,512 at five of the six facilities we examined from March 2008 through February 2009. The employees did not meet the requirements for the extra pay.
- May have improperly paid its employees as much as $588,376 statewide during the 12-month period we reviewed.
- Lacked sufficient controls to ensure that its employees satisfied all of the requirements for receiving extra pay for supervising inmates.
- Mostly failed to initiate collection efforts to recover the improper payments it identified after our previous investigation.

KEY RECOMMENDATIONS

To ensure that it issues inmate supervision pay only to employees who meet the requirements, Corrections should do the following:

- Require all its employees who receive inmate supervision pay to submit documentation with their time sheets supporting that they qualify for the pay.
- Ensure its employees who qualify for the extra pay receive proper instruction and training regarding the requirements and procedures associated with the inmate supervision pay.

To ensure that all overpayments are returned to the State, Corrections should initiate accounts receivable for the employees identified as receiving improper payments.

California Department of Corrections and Rehabilitation:

It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations

September 2009 Report 2009-107.1

CALIFORNIA STATE AUDITOR

Summary

Results in Brief

The mission of the California Department of Corrections and Rehabilitation (Corrections) is to enhance public safety through the safe and secure incarceration of offenders, rehabilitative strategies to successfully reintegrate offenders into communities, and supervision of parolees. In the last three years Corrections' expenditures have increased by almost 32 percent, and its expenditures now represent about 10 percent of the State's total General Fund expenditures. During the same period of time, the inmate population has decreased by roughly 1 percent. Various factors influence the cost of Corrections' operations, including overcrowding, vacant employee positions, the transition of the inmate health care function to a federal court-appointed receiver, escalating overtime costs, and the presence of aging inmates with lengthy prison terms due to sentencing under the three strikes law. Additionally, a recent federal court order requiring Corrections to create a plan to drastically reduce the inmate population at its institutions will also likely affect costs.

Although these factors affect the cost of its operations, Corrections' ability to determine the impact of each factor is limited by a lack of information. Despite rising costs for incarcerating inmates, Corrections does not have sufficient information to identify how much specific inmate or institution characteristics contribute to these costs and how changes in Corrections' operations would influence expenditures. Further, due to a lack of basic data regarding education and vocational programs provided to inmates, Corrections does not have information that could help it identify opportunities to evaluate effectiveness in reducing the chance that inmates will return to prison once they are released. Corrections is in the process of developing an automated system that will, if successful, allow for statewide data analysis.

Using the data available in Corrections' accounting records, we were able to associate expenditures with specific institutions. However, because Corrections fails to maintain certain basic management information, we were unable to determine the number of custody officers associated with specific populations, such as high-security inmates, violent offenders, and specialized units, and thus were unable to determine what causes the significant cost fluctuations among institutions. In contrast, we were able to confirm that costs per inmate generally increase with the security level of the institution's mission, or primary function. The higher costs at some institutions are related primarily to health care and increased custody staffing levels, and we found that institutions that house high-security inmates, violent offenders,

Audit Highlights . . .

Our review of California's increasing prison cost as a proportion of the state budget and the California Department of Corrections and Rehabilitation's (Corrections) operations revealed the following:

- ***While Corrections' expenditures have increased by almost 32 percent in the last three years, the inmate population has decreased by 1 percent during the same period.***
- ***Corrections' ability to determine the influence that factors such as overcrowding, vacant positions, escalating overtime costs, and aging inmates have on the cost of operations is limited because of a lack of information.***
- ***The cost of housing an inmate out of state in fiscal year 2007–08 was less per inmate than the amount Corrections spent to house inmates in some of its institutions.***
- ***Overtime is so prevalent that of the almost 28,000 correctional officers paid in fiscal year 2007–08, more than 8,400 earned pay in excess of the top pay rate for officers two ranks above a correctional officer.***
- ***Over the next 14 years, the difference between providing new correctional officers with enhanced retirement benefits as opposed to the retirement benefits many other state workers receive, will cost the State an additional $1 billion.***

continued on next page . . .

» *Nearly 25 percent of the inmate population is incarcerated under the three strikes law. We estimated that the increase in sentence length due to the three strikes law will cost the State an additional $19.2 billion over the duration of the incarceration of this population.*

» *Although Corrections' budget for academic and vocational programs totaled more than $208 million for fiscal year 2008–09, it is unable to assess the success of its programs.*

» *California Prison Health Care Services' ability to transition to using telemedicine is impeded by a manual scheduling system and limited technology.*

and specialized units had significantly higher average annual costs per inmate. In a subsequent report, we plan to provide further detail on the comparative cost of contracted medical care provided to inmates of various ages.

Corrections is working to reduce overcrowding and currently houses several thousand inmates in contracted facilities located in other states. The primary purpose of incarcerating inmates outside California is to reduce overcrowding and the dangerous conditions caused by placing inmates in prison areas such as gymnasiums, dayrooms, and program rooms that were not designed for inmates that need cells. The cost of housing an inmate out of state in fiscal year 2007–08 was less per inmate than the amount Corrections spent to house generally comparable inmates.

Housing, security, and support costs are the largest category in the cost of incarceration, and the number of custody staff depends on the security and custody levels of the inmates as well as various institutional considerations. Custody staff costs include the $431 million Corrections paid in overtime for inmate custody operations during fiscal year 2007–08. Overtime is so prevalent that of the almost 28,000 correctional officers paid in fiscal year 2007–08, more than 8,400 earned pay in excess of the top pay rate for a correctional lieutenant—the level two ranks above a correctional officer. However, the cost to recruit and train new correctional officers, combined with the significant increases in the cost of benefits in recent years, makes hiring a new correctional officer slightly more costly per hour than paying overtime to the highest-paid correctional officers currently employed by Corrections. For example, the percentage of a correctional officer's salary that the State contributes for retirement benefits was nearly 26 percent in fiscal year 2007–08. The retirement benefits correctional officers receive allow them to retire with similar benefits nine years earlier than other state employees who receive the same salary. According to our estimates, over the next 14 years the difference between providing new correctional officers with the enhanced retirement benefits they currently receive, as opposed to the retirement benefits many other state workers receive, will cost the State an additional $1 billion.

Nearly 25 percent of the inmate population is incarcerated under the three strikes law. The three strikes law requires individuals to serve longer prison terms. In addition, our analysis indicates that such inmates as a population are older. Research has found that older inmates require more health care, and as a result the costs of incarcerating them are higher. By comparing the sentences of inmates incarcerated under the three strikes law to the sentences they might otherwise have received, we estimate that the increase in sentence length due to the three strikes law will cost the State an additional $19.2 billion over the duration of these inmates' incarceration. However, our analysis does not take into account several factors that are dependent upon inmate behavior, including the differences in the amount of credit inmates can earn toward an early release and the rate of recidivism—the likelihood that an inmate will return to prison for committing another offense. We will publish a subsequent report that will provide additional details on the number and cost of subpopulations of inmates sentenced under the three strikes law.

Additionally, while Corrections' budget for its academic and vocational programs totaled more than $208 million in fiscal year 2008–09, it confirmed that its system for accessing, processing, and tracking inmate educational data is extremely inadequate, and therefore it is unable to determine the success of its programs in reducing the chance that inmates will return to prison once they are released. Moreover, Corrections' lack of a plan for placing teachers in institutions and classes based on inmate needs limits the likelihood that education is being provided to eligible populations in an efficient manner. Further, a lack of information on inmates who have been on a waiting list, or previously participated in these programs, limits Corrections' ability to determine the efficacy of these programs, whether inmates were denied access by being paroled prior to enrolling in a program, and whether Corrections complied with state law requiring it to make literacy programs available to at least 60 percent of eligible inmates in the state prison system.

Finally, although cost is not the federally appointed receiver's main focus, the receiver hopes to cut medical costs by transitioning additional medical care to telemedicine appointments—two-way video conferencing between an inmate and a health care provider. However, this process is in an early stage. Furthermore, California Prison Health Care Services (Health Care Services) has not yet estimated the total cost savings, effectiveness, or potential for using telemedicine due to a lack of reliable information. In addition, its ability to transition a significant portion of the health care workload to telemedicine is impeded by a manual scheduling system and limited technology. Without systemwide improvements addressing these issues, it is unlikely that significant amounts of additional care will be provided via this delivery method.

Recommendations

To help it assess the effect of policy changes and manage operations in a cost-effective manner, Corrections should do the following:

- Ensure that its new data system will address its current lack of data available for statewide analysis, specifically, data related to identifying the custody staffing cost by inmate characteristics such as security level, age, or custody designation.

- If implementation of its new data system continues to be delayed, or if Corrections determines that the new system will not effectively replace the current assignment and scheduling systems used by the institutions, it should improve its existing data related to custody staffing levels and use the data to identify the related costs of various inmate populations.

To ensure that it is addressing the program needs of its inmate population in the most cost-effective manner, Corrections should develop a staffing plan that allocates teacher and instructor positions at each institution based on the program needs of its inmate population.

To ensure that it can determine whether it is in compliance with state law and can measure the efficacy of its programs in reducing recidivism, Corrections should track, maintain, and use historical program assignment and waiting list data by inmate.

To minimize costs through the use of telemedicine, Health Care Services should do the following:

- Review the effectiveness of telemedicine consultations to better understand how to use telemedicine.

- Perform a more comprehensive comparison between the cost of using telemedicine and the cost of traditional consultations, beyond the guarding and transportation costs, so that it can make informed decisions regarding the cost-effectiveness of using telemedicine.

To increase the use and efficiency of the telemedicine system, Health Care Services should maintain a focus on developing and improving its computer systems, such as its scheduling system.

Agency Comments

Corrections believes that the report does not completely capture the complexity of many of the issues it addresses. For example, Corrections asserts that the source of the difficulty in determining the number of custody officers associated with a given group of inmates is that inmates have multiple characteristics and thus may be a part of more than one group. In addition, it believes that some of the topics discussed in the report are not solely within its purview to address and that while it agrees with our recommendation that it should seek better data to more effectively manage, it questions how this will allow it to reduce certain types of costs. Finally, Corrections believes that it has made progress in several of the areas discussed in the report, and will address the specific recommendations in future corrective action plans.

The receiver agrees with our recommendations and states that Health Care Services is taking action to address them.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, March 4, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

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

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Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Department of Alcoholic Beverage Control (2100)				
1	IT Infrastructure Replacement	$86,000	Alcoholic Beverages Control Fund	Approve
Department of Justice (0820)				
1	Dealers' Record of Sale (DROS) Workload Increase	$257,000	DROS Special Account	Approve
2	Gun Show Programs Augmentation	-$616,000 $801,000	General Fund DROS Special Accnt.	Approve
3	Compliance and Enforcement Investigation Workload	$184,000	Gambling Control Fund	Approve
4	COPS Technology Program Grant	$500,000	Federal Trust Fund	Approve
5	SB 741 Proprietary Security Srvs Act	$75,000	Fingerprint Fees Account	Reject dollars; Approve BBL
6	AB 1025 ASCC	$172,000	Fingerprint Fees Account	Reject dollars; Approve BBL
7	SB 447 Custodian of Records	$378,000	Fingerprint Fees Account	Reject dollars; Approve BBL
California Department of Corrections and Rehabilitation (5225)				
1	Program Funding Realignment	$0	General Fund	Approve
2	Inmate Dental Services Program Restructure	$0	General Fund	Approve
3	DJJ Education Proposition 98 Savings	-$6,366,000	General Fund – P98	Approve

Vote Only Items – Issue Descriptions

Department of Alcoholic Beverage Control (2100)

Issue 1 – IT Infrastructure Replacement
The administration requests $86,000 one-time funding from the Alcoholic Beverages Control Fund to replace 17 desktops and 44 laptops. This is a continuation of larger information technology refresh approved for the current fiscal year which included replacement of 145 desktops and 138 laptops.

Department of Justice (0820)

Issue 1 – Dealers' Record of Sale Workload Increase
The department requests $257,000 from the Dealers' Record of Sale (DROS) Account to address a projected 10 percent increase related to the number of background checks performed on gun purchasers by the Bureau of Firearms. The department has a statutory requirement to complete these reviews within 10 days, and the department reports that increased workload has required diversion of staff from other functions. The request would provide funding for 3 additional positions, though the department would use its existing position authority. Fees paid by dealers fund this workload, and there is no General Fund impact from this proposal.

Issue 2 – Gun Show Programs Augmentation
The department requests a net augmentation of $185,000 for an additional Special Agent for its enforcement team responsible for investigating gun shows with the intention of preventing sales of illegal firearms and ammunition. This request includes in the transfer of current General Fund support for this program of $616,000 to the DROS Account. The combination of the additional position and transfer of General Fund costs results in a total augmentation to the DROS Account of $801,000, and provides a General Fund reduction of $616,000.

Issue 3 – Compliance and Enforcement Investigation Workload
The department requests $184,000 of Gambling Control Fund authority to add 2 additional positions for its program to regularly inspect gambling cardrooms. The department reports a backlog of 151 inspections based on increased regulatory requirements since 2007-08 and insufficient staffing levels to inspect all 91 cardrooms in the state. If approved, these additional staff would allow the department to complete one inspection of each cardroom annually. According to the department, each inspection requires drive approximately two weeks of workload.

Issue 4 – COPS Technology Program Grant
The department requests one-time Federal Funds increase of $500,000 to support a new federal grant for the Community Oriented Policing Services (COPS) Technology Grant Program. The funding will be used to support implementation of DOJ's Vision 2015 Criminal Justice Information Sharing Project activities in Santa Clara County. Specifically, the funding will be used to purchase mobile identification devices for patrol cars and purchase live scan fingerprint devices to match a court adjudication transaction to an active State Identification Number.

Issues 5-7: SB 7 Proprietary Security Services Act; AB 1025 Activity Supervisor Clearance Certificate; SB 447 Custodian of Record

The department has three proposals, totaling $699,000 in additional Fingerprint Fee Account authority, in order to address additional workload projected related to recently enacted laws designed to increase the number of people required to be fingerprinted and have their criminal histories checked by DOJ. The department further proposed Budget Bill Language providing the department authority to spend above its budgeted authority by up to 10 percent if higher than anticipated workload arises. The language would further require notification to the Joint Legislative Budget Committee within 15 days of any such augmentation. Due to uncertainty surrounding the impact of the new laws, the DOJ has requested to withdraw the requested augmentations but to retain the proposed Budget Bill Language which would allow the department the flexibility to address new workload.

California Department of Corrections and Rehabilitation (5225)

Issue 1 – Program Funding Realignment

The administration proposes to permanently realign funding for a number of programs and divisions within the department to more accurately match General Fund authority and program expenditures. For example, the proposal includes moving regional accounting office expenditure authority from the budget program for institutions to the budget program for administration. There is no net cost for this proposal.

Issue 2 – Inmate Dental Services Program Restructure

The administration proposes to restructure the department's inmate dental program by reorganizing authorized staff positions. The department proposes to eliminate the Chief Dentist position at each institution and replace with lower cost Health Program Manager III positions. The department further proposes to reduce the number of dentists in the prisons and add dental hygienists. On net, the department's inmate dental program position authority would increase by 69 positions but at no additional state costs. It is further worth noting that the proposed restructuring would net $10 million in savings, but these savings have been scored towards the department's $100 million unallocated reduction required in the 2009-10 Budget Act.

Issue 3 – DJJ Education Proposition 98 Savings

The department proposes a total reduction of $6.4 million in General Fund-Proposition 98 funding for the Division of Juvenile Justice. These reductions reflect two technical adjustments that should have been made in past budget cycles. This includes $4.0 million in one-time costs approved in 2005-06, but the funding was not removed in subsequent years. In addition, the 2006-07 budget included recruitment and retention bonuses for teachers. However, when the ward population declined, the funding for bonuses was not reduced accordingly.

Department of Alcoholic Beverage Control (2100)

Departmental Overview. The mission of the Department of Alcoholic Beverage Control is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare, and economic well being of the people of California. Upon repeal of prohibition in 1933 and the return of the legal sale of alcoholic beverages to California, taxation and regulation of the manufacture, distribution, and sale of alcoholic beverages were give the State Board of Equalization. In 1955, an amendment of the State Constitution became effective removing the duty of regulating the manufacture and sale of alcoholic beverages from the State Board of Equalization and placing it in the new Department of Alcoholic Beverage Control (ABC). The primary responsibilities of ABC are to issue licenses to allow the sale of alcoholic beverages and to investigate and make arrests for legal violations that occur on licensed premises. Licensees who violate State laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked.

Budget Overview. The Governor's budget provides $58.5 million for ABC in 2010-11, a $5.1 million increase over 2009-10 projected expenditures. About 96 percent of the department's proposed budget is funded through the Alcoholic Beverages Control Fund which is funded through licensing revenues. The department is funded for about 460 positions, the same number as funded in the current year.

Issue 1 – Liquor License Fee Adjustment

Background. The original fee for a general liquor license is currently $12,000. This fee was last adjusted in 1995.

Governor's Budget Request. The administration proposes to increase this fee 15 percent to $13,800. Upon full implementation, the fee increase would generate an estimated $788,400 in new revenues to be deposited into the Alcoholic Beverages Control Fund.

	2010-11	**2011-12**
Alcoholic Beverages Control Fund	$394,200 (revenues)	$788,400 (revenues)
PY's	0	0

Staff Comments. Current statute allows annual adjustments to license renewal fees based on the California Price Index (CPI), but the law does not provide for the same adjustments for the original fee. The proposed increase of 15 percent is less than the increase in CPI since 1995 (46 percent), and while the proposed increase in fees is significant during a struggling economy, the department reports that the market value of liquor licenses is much higher than what is proposed, reaching as high as hundreds of thousands of dollars in some places.

The department reports an anticipated structural budget shortfall of $3.3 million in 2010-11, primarily due to expected increases in personnel costs associated with the conclusion of employee furloughs. The department reports that while it projects a fund balance at the end of the current year of about $13.6 million, projected cost increases will deplete the fund balance within a couple of years absent an increase in revenues.

Staff notes that even with proposed fee increases for a general liquor license and the catering and event authorization fee (see Issue 2 below), the department still projects a structural shortfall in the budget year of $2.8 million. While the proposed fee increases, as well as the potential for a recovering economy in coming years would improve the fund balance, the ongoing structural shortfall could mean fund depletion within a few years. The committee may wish to direct the department to report on what steps it plans to take to address its structural budget shortfall before authorizing a fee increase of this magnitude.

Staff Recommendation. Hold open.

Issue 2 – Alcoholic Beverage Catering Authorization/Event Authorization Fee Adjustment

Background. The department's fees for the review, processing, and issuance of catering and event authorizations is currently $10. The fee for catering authorization has not been adjusted since its statutory imposition in 1979, and the fee for an event authorization has not been adjusted since its statutory creation in 1997.

Governor's Budget Request. The administration proposes to increase these fees to $25. Upon full implementation, the fee increases would generate an estimated $256,500 in new revenues to be deposited into the Alcoholic Beverages Control Fund.

	2010-11	**2011-12**
Alcoholic Beverages Control Fund	$128,250 (revenues)	$256,500 (revenues)
PY's	0	0

Staff Comments. Current statute allows annual adjustments to license renewal fees based on the California Price Index (CPI), but the law does not provide for the same adjustments for these fees. As a consequence, the administrative costs of reviewing, processing, and issuing these authorizations ($35-$45) significantly exceed the current fee allowed.

Staff Recommendation. Approve as budgeted.

Department of Justice (0820)

Departmental Overview. The Attorney General is the chief law officer of the state and has the responsibility to see that the laws of California are uniformly and adequately enforced. This mission is fulfilled through the diverse mission of the Department of Justice (DOJ).

The DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissions, and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil rights laws; and assists county district attorneys in the administration of justice.

The DOJ also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information systems to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

Budget Overview. The 2010-11 budget proposal provides $749.9 million for DOJ. This is an increase of $17.2 million over projected expenditures for the current year. The Governor's proposed budget includes about $246 million in General Fund support for DOJ. The department is funded for 5,013 positions, a slight reduction from the current year.

As part of the 8th Extraordinary Session, the Legislature approved ABx8 2 and ABx8 3 (Committee on Budget) which reduced the department's General Fund budget by $45 million in 2010-11 by raising the DNA penalty by $2.

Issue 1 – Legal Services Fund Swap

Background. The DOJ represents state departments in various court matters. Under current law, Special Fund departments reimburse DOJ for legal work on a billable hours basis. These payments are deposited into DOJ's Legal Services Revolving Fund.

General Fund departments, however, do not pay DOJ for legal representation. Instead, DOJ has its own General Fund appropriation of $48,170,000 with which it funds this legal work. The department notes that in recent years the amount of workload on DOJ attorneys has been higher than they can absorb with existing resources, and the Attorney General has been directing General Fund departments to obtain outside counsel, some times at greater hourly cost than what DOJ charges to billable clients.

Governor's Budget Request. The department requests authority to bill General Fund clients for legal work as it does for Special Fund clients. In order to accomplish this, the department proposes to reduce it General Fund authority by $48.2 million and increase its Legal Services Revolving Fund authority by an equivalent amount. Under Control Section

5.20, the Department of Finance would have the authority to determine how the legal service funding would be allocated among General Fund clients. The Control Section further requires quarterly reporting to the Joint Legislative Budget Committee regarding the allocations. The administration also proposes elimination of the existing statutory requirement that charges for DOJ legal services cannot be made against the General Fund.

	2009-10	**2010-11**
General Fund Legal Services Revolving Fund	$0	-$48,170,000 $48,170,000
PY's	0	0

Staff Comments. The idea of making General Fund departments pay DOJ for its legal services has merit. Making client departments bear the cost of litigation could provide them with fiscal incentives that they do not have currently to consider the full costs associated with litigation. This may be particularly true for departments that face a lot of litigation and should probably weigh the relative strengths of different cases before they decide which to litigate and which to settle, for example.

In addition, moving General Fund clients to a billable system, each with its own General Fund appropriation for legal costs, would mean that these legal costs would be reflected in the client department budget each year, rather than in DOJ's budget. This is probably a more accurate and transparent budgeting approach and would further mean that departments would have to come to the Legislature directly if they required additional resources for new legal cases that might arrive. This, in turn, would give the Legislature an opportunity to decide if those litigation costs are a high enough priority to fund.

While these merits make this proposal worth considering, there are also tradeoffs to consider. The total funding provided is $48.2 million. However, DOJ reports that the total number of hours worked by DOJ for General Fund clients in 2008-09 was 456,267 hours. At DOJ's billable rate of $170 per hour, this comes to $77.6 million in workload, about 61 percent more than what is actually budgeted. The DOJ reports that the department has been forced to absorb these costs in recent years through use of overtime and use of resources from other areas of operation. The DOJ points out that moving to a billable rate could result in departments being more selective about how frequently they utilize DOJ's legal services which would have the impact of reducing the total costs. However, it is not clear that client departments could reduce their legal workload by 61 percent in the budget year.

In addition, the administration does not propose to directly allocate the funding to client departments' budgets, instead allowing the DOF to allocate the funds over the course of the fiscal year as requests come in from departments. These factors are likely to leave departments with significant uncertainty as to what they will ultimately have in their budget for legal services, making planning difficult. Adding to this uncertainty is that it is unclear what criteria DOF will use to determine which legal requests are granted and which are denied. Finally, it is unclear what will happen if, as is likely to occur, the total funding is used up before the end of the fiscal year. Will departments be required to delay, lose, or settle cases that they might not otherwise? Or are they likely to come to the Legislature with deficiency requests?

Top 10 Non-Billable Client Hours and Associated Costs
(Fiscal Year 2008-09)

	Department	Hours	Costs
1	Corrections and Rehabilitation	294,905	$50,13,850
2	Mental Health	21,596	3,671,320
3	Franchise Tax Board	17,891	3,041,470
4	Governor's Office	17,686	3,006,620
5	Board of Equalization	15,931	2,708,270
6	Ca. Coastal Commission	12,722	2,162,740
7	Forestry and Fire Protection	12,586	2,139,620
8	State Water Resources Control Board	10,306	1,752,020
9	State Lands Commission	8,286	1,408,620
10	Parks and Recreation	7,837	1,332,290
	Total, All Departments	*456,267*	*$77,565,390*

LAO Findings and Recommendations. The LAO makes the following findings and recommendations:

- ***Proposal Does Not Appropriate Funds.*** There appears to be a technical problem with the Governor's proposal in that the funds intended for legal services are not appropriated in the budget bill. Without such an appropriation, the funds cannot be allocated by DOF.

- ***Proposed Legislative Oversight Is Weak.*** The interim budget control process proposed by the administration does not provide sufficient legislative oversight for the allocation of funding. The proposed control section would provide DOF unlimited authority to adjust the appropriations of departments for legal services without any prior legislative review. Under the Governor's proposal, the Legislature would be notified after the fact, on a quarterly basis, of budget adjustments made by DOF.

- ***Interim Authority Justified for Only One Year.*** The administration proposes that the additional authority over spending for legal services be delegated to DOF for an indefinite period of time, perhaps several years. However, there is no compelling reason why the transitional process of having DOF review and approve each request for legal services should continue beyond the budget year. Data on actual legal services usage and costs by agency collected both prior to and during 2010-11 should be sufficient to determine the necessary baseline adjustments by May 2011 that could be made for 2011-12.

- ***LAO Recommends Approval with Modifications.*** The LAO believes the administration's proposal has merit and could eventually lead to savings by state agencies on the cost of legal representation. In view of the above concerns, however, the LAO recommends that the Legislature amend the proposed budget control section to provide for stronger legislative oversight of the new process. In particular, it should specify that any request above $1 million may proceed no sooner than 30 days after the Director of DOF provides notification of the proposed expenditures to the JLBC. In addition, the LAO recommends that the budget control section process proposed by the administration be approved by the Legislature only for 2010-11, in order to complete the move towards an effective billable-services system as early as possible. Finally, the LAO recommends that the Legislature appropriate the $48 million for legal services in an item in the budget.

Staff Recommendation. Hold open.

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.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

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 five 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 2010-11 General Fund budget for CDCR is $8.5 billion, primarily for adult prison operations. This total is a decrease compared to the current year, primarily because of proposals to reduce spending on inmate health care, make certain felony offenses punishable by local jail instead of prison, and the continued implementation of legislative reforms enacted in the 2009-10 budget. Overall, the Governor's proposed budget provides about 11 percent of General Fund resources to CDCR.

Oversight Issue 1 – DJJ Reentry and Parole

Mission of DJJ Parole Division. The mission of DJJ's parole division is specified in W&I Code 1710(b)(3) which reads, "The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into society, in order to reduce the rate of recidivism, thereby increasing public safety."

Description of DJJ Reentry and Parole Programs. Research on successful juvenile offender rehabilitation systems finds that reentry should begin when wards enter juvenile facilities and be a consistent part of their programming during the course of their stay and into post-release supervision. As described in more detail later in this agenda, this is the approach required by the *Farrell* remedial plans. Some aspects of DJJ's reentry and parole system are described here.

- ***Sentencing.*** It is important to note that unlike most adult inmates sent to state prison, wards adjudicated in juvenile courts are sent to state facilities on an indeterminate term with a maximum age by which they must be released. The Juvenile Parole Board is charged with determining if a ward is suitable for release prior to that maximum age. According to a CDCR report, the board heard 403 parole consideration date initial hearings. On average, wards had spent 30.2 months in DJJ before having this first hearing. In total, average time served in DJJ before first release was 35.3 months in 2008.

- ***Screening and Assessment.*** The department reports that reentry planning begins at admission with the Community Assessment Report, begun in July 2009, and designed for parole agents to begin the process of identifying key community and family issues and preparing a transition plan. The department also report that both institution and parole staff have been trained in administering risk and needs assessments which are designed to inform an individualized treatment plan.

- ***Facility Reentry and Rehabilitation Programs.*** The *Farrell* remedial plans require various programs and treatment services to be provided in DJJ facilities, including education and vocational programs, substance abuse treatment, and mental health treatment. The department also reports that it has implemented two transition courses through its education program. One, the Transition Orientation, occurs when the ward first enters the DJJ High School, and the second, Transition to Success, occurs within a year of release. Both are designed to provide transitional planning and counseling working with Transition Coordinators and Teachers. Historically, the department has also had wards work with a Transition Coordinator individually when they were within 90 days of release. The department reports that they want to begin this process earlier, closer to six months prior to release.

- ***Parole Supervision.*** When released, wards are initially placed on intensive supervision caseloads for the first three to nine months after release. These reentry caseloads are 15 parolees for every parole agent. Other parolees are on specialized caseloads of 30 to 1, or on case management caseloads of 50:1 or 70:1. About 8 percent of parolees are on reentry caseloads, 47 percent are on specialized caseloads, and the remaining 45 percent are on case management caseloads. For 2008, parolees exiting parole had spent an average of about 22 months under parole supervision.

- ***Parole Programs.*** Based on information provided by DJJ, parolees have access to a variety of community programs and services. These include substance abuse, education, employment, mental health, and sex offender programs. Many of the programs are contracted through private or non-profit vendors or provided by local government agencies. It appears that the number and type of programs available varies depending on geographical location. The DJJ reports that some things they believe still need to be done to improve parole programs are (1) appropriate allocations in order to attract more qualified providers, (2) obtaining more services in remote areas, (3) improved monitoring of programs, (4) improved community collaborations, (5) more alternative sanction options for parole violators, and (6) evaluation components to identify the degree to which programs are working.

- ***Parole Violators.*** Historically, the recidivism rate of DJJ wards released has been over 50 percent within two years of release, and about three-quarters of all releases have recidivated within three years of release. The department's standard recidivism report has not been updated the past two years. The department reports that it is developing a revised set of recidivism measures that will more accurately coincide with how other states report recidivism.

Profile of DJJ Wards and Parolees. As of December 31, 2009, there were 1,705 DJJ parolees. About 65 percent of them were on parole for the first time. About 12 percent had 2 or more parole violation returns. About half of the parolees are from Northern California counties, and about half are from Southern California counties. Los Angeles has the most juvenile parolees with about 400. About 85 percent of DJJ parolees are of African American or Hispanic ethnicity. About 99 percent are 18 or older. Just over half of the parolees are Board Category 4 (on a range of 1 through 7) which includes various serious and violent offenses, particularly assault with a deadly weapon and robbery

Costs of Reentry and Parole. The Governor's budget provides $32.6 million for DJJ's Parole Division. This comes to about $22,000 per parolee. The Governor's Budget does not identify how much of these costs are attributed to supervision versus treatment programs or other types of parole services. In total, the proposed budget authorizes 161 PYs for the DJJ Parole Division.

Impact of DJJ Litigation on Reentry and Parole Programs. Two major lawsuits have impacted the way that DJJ provides reentry and parole services.

- ***Farrell v. Schwarzenegger.*** In 2004, the state and plaintiffs entered into a consent decree that required the state to substantially improve the operation of DJJ facilities in order to "provide all wards in the department with adequate and effective care, treatment and rehabilitative services." Several of the remedial plans that were developed in response to the consent decree affect how wards are prepared for community reentry. In general, the remedial plans require the department to implement programs and policies designed to rehabilitate wards with the effect that those individuals will be more able successfully reenter their communities. This approach is subsumed in the Integrated Behavior Treatment Model (IBTM) which requires the department to integrate screening and assessment, programs, housing, and reentry within every aspect of the department's activities. The remedial plans require the department, among other things, to prepare for reentry starting at the onset of the youth's arrival at a DJJ reception center and should include individualized treatment plans. The remedial plans further require DJJ to improve transition services by establishing a transition program and increasing contact with parole agents, community providers, and families as youth near parole. This includes the establishment of regional reentry coordinators and reentry specialists at every facility.

- ***LH v. Schwarzenegger.*** In 2006, the state and plaintiffs entered into a stipulated agreement in the *LH v. Schwarzenegger* lawsuit. The agreement required the state to fix the juvenile parole revocation system such that it would no longer violate constitutional protections of due process. Specifically, the agreement required the state to make changes that included providing juvenile parolees undergoing the revocation process to be represented by an attorney, establishing maximum timeframes in which various steps of the revocation process must occur, and providing alternatives to incarceration.

National Research on Juvenile Reentry and Parole. Based on a review of the national literature, there is less definitive research about what works in the area of juvenile corrections than in adult corrections, for example. However, there is evidence that certain types of programs can be effective at reducing rates of reoffending by incarcerated juveniles. The Washington State Institute for Public Policy (WSIPP) has conducted meta-analyses of various research studies from across the nation. Using this data, they find that several programs not only reduce recidivism, but also are cost-effective, meaning the fiscal benefits to taxpayers and crime victims from preventing new crimes is greater than the cost of providing the program. These include various types of treatment and therapy programs, sex offender treatment, and drug courts, for example. Net savings for such programs, according to WSIPP, can reach as high as tens of thousands of dollars per participant for these programs. More generally, research shows that effective programs follow certain common principles, including (a) assessing the needs of offenders and providing individualized treatment, (b) targeting programs based on the risk of offenders, (c) making programs responsive to the type of offender being served, for example based on gender, (d) measuring the fidelity of how well programs are implemented, (e) getting family participation, and (f) selecting, training, and retaining qualified program providers.

DJJ Reentry and Parole Outcomes. The department is required under Penal Code 2063 to provide the Legislature with an annual report regarding various department activities, including in-prison and parole programs and outcomes, including recidivism. The report is due to the JLBC by January 10 of each year, and the 2010 report shows that in 2008-09 there were 467 juvenile parolee returns to DJJ facilities. This represented about 25 percent of the average daily population of parole, and was a significant increase over the prior year (16 percent). In addition, the department has worked in recent years to implement a standardized tool for tracking department-wide data on program operations and outcomes. This tool, called COMPSTAT, identifies some of the following information on program participation and outcomes in DJJ Parole (for the 4^{th} quarter of 2009):

- ***Parole Violations.*** Parolees committed 287 violations during the quarter (out of an active caseload of 1,495 parolees). About 64 percent of these were for substance abuse. About 19 percent were for violent offenses, including domestic violence.
- ***Program Participation.*** About 30 percent of parolees are receiving counseling services for psychological, sex offender, or substance abuse issues. About 10 percent are in transition placement beds for these issues.
- ***Employment.*** About 22 percent of parolees are employed full-time, and about 14 percent are employed part-time.
- ***Education.*** About 56 percent of parolees have a high school diploma or equivalent. About 21 percent of parolees are enrolled in an academic or vocational education program.

- ***Restitution.*** There are 699 parolees who owe some restitution, and they paid a total of about $6,100 of restitution during the quarter (about $9 per parolee owing restitution).
- ***Alternatives to Revocation.*** About 18 percent of parolees are in an alternative to revocation program, such as substance abuse treatment and electronic monitoring.
- ***Successful Discharges.*** Only 48 percent of all discharges from parole were classified as honorable (15 percent) or general (33 percent). Almost all of the rest were dishonorable discharges.

Issues for Further Discussion. The committee may wish to ask DJJ representatives to discuss some of the following issues:

- To what extent is the department in compliance with *Farrell* requirements related to the preparation of wards for reentry into communities? What further steps still need to be taken to meet those requirements?

- What is the status of implementing risk and needs assessments and individualized treatment plans for all wards?

- How does the department measure the success of its reentry and parole systems? To what extent does the department establish specific goals or benchmarks by which to measure its progress?

- Are the in-prison transition and reentry programs generic education programs, or are they individualized case management programs designed to provide each ward with direct assistance in obtaining housing, employment, and counseling services before release?

- Why does it cost $22,000 per year to supervise a DJJ parolee? What drives those costs?

- What steps is DJJ taking to reduce the rate at which parolees under its supervision recidivate and commit new crimes after release?

- Does the department assess the fidelity or outcomes of programs to which it refers parolees?

Issue 2 – DJJ Population Management Solutions

Background. The DJJ is responsible for housing juvenile offenders. This includes housing offenders adjudicated in juvenile courts up to a maximum age of 25. The DJJ also houses some juvenile offenders who are convicted in adult courts, and the department often houses these offenders until a maximum age of 21 before transferring them to adult prison if their sentence has not expired. These are referred to as E or M cases.

Wards adjudicated to DJJ by juvenile courts are sentenced for an indeterminate period, and they are released based on the decisions of the Juvenile Parole Board or when they reach the maximum age of jurisdiction. Current regulations allow staff to issue "time adds" – extensions of time to be served before the ward's next parole board hearing – for facility rules infractions.

The mission of DJJ is set forth in Welfare and Institutions Code 1700 and subsequent sections. According to W&I Code 1700, "The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses."

Governor's Budget Request. As part of its proposed budget, the administration requested a reduction of $48 million in 2010-11 related to the implementation of three changes designed to reduce the population of wards housed in DJJ facilities by 398. These proposals include the following:

- ***Age of Jurisdiction (328 wards).*** Effective July 1, only allow DJJ to hold wards until their 21st birthday or for two years, whichever is longer.

- ***Transfer Eligible Wards to Adult Prison (30 wards).*** Transfer 30 wards who were sentenced in criminal courts and are over the age of 18 to adult prison.

- ***Elimination of Time Adds (40 wards).*** Eliminate the use of time adds through change in policy and regulations.

	2009-10	**2010-11**	**2011-12**
General Fund	$0	-$41,280,000	-$55,680,000
General Fund-Prop 98	$0	-$6,720,000	-$9,120,000
PY's	0	-517.6	-556.6

Since release of the Governor's budget, the administration has changed its proposal regarding the age of jurisdiction. Instead of changing the age of jurisdiction immediately as originally proposed, the administration is now proposing to only change the jurisdiction *prospectively*, for those wards adjudicated to DJJ after the implementation of the policy. This change would mean that none of the reduction associated with the original change in age of jurisdiction proposal would be achieved in the budget year.

Staff Comments. In adopting ABx8 2 (Committee on Budget), the Legislature approved the budget reduction amount proposed in the Governor's budget for DJJ in 2010-11. However, the Legislature did not adopt specific changes in statute necessary to achieve these savings, leaving that work to be done by budget committees. In determining the best approach to achieving these savings, the committee should consider several factors, including the following:

- ***Impact of Time Served on Recidivism.*** Research on both adult and juvenile offenders suggests that the length of time individual offenders are incarcerated does not have a significant impact on their likelihood of being returned to incarceration.

This is a significant finding when considering both the proposed changes in the age of jurisdiction and time adds. If length of stay is not a significant contributor to recidivism rates, then these proposals that would reduce length of stay in DJJ would not have as significant of a public safety impact as might otherwise be assumed. Further, while it is certainly true that incarceration does have an incapacitation effect that reduces the possibility that offenders will commit new offenses while incarcerated, it is important to remember that all of the offenders that would be affected by these policies are at most within a couple years of release anyway. For this reason, what may be more relevant than time served is the degree to which the department is successfully implementing a rehabilitative model in DJJ that will result in reduced recidivism of juvenile offenders. Of note is that only a couple of other states confine juvenile offenders until the age of 25. Instead, most other states seek to successfully treat and rehabilitate juvenile offenders within a couple of years.

- ***Effectiveness of Time Adds on Affecting Ward Behavior.*** In a November 30, 2009 hearing in front of this committee and the Senate Public Safety Committee, both a national expert and representatives of the department testified that time adds are not effective at reducing ward misconduct, its primary purpose. They stated this is primarily because the consequence of the negative behavior, a delay of the ward's next parole consideration hearing, would not affect the ward for months or years in many cases. This statement is consistent with most research on behavior intervention techniques which suggest that to be effective, consequences should be dealt quickly and with certainty, as well as in proportion to the offense. For these reasons, the department has recently informed staff that it has significantly curtailed the use of time adds, and this has contributed to a reduction in the ward population from 1,617 on February 28, 2009 to 1,411 on February 28, 2010. Importantly, if the Legislature were to approve CDCR's proposal to eliminate time adds, there remains the question of what tools will the department will have to respond to ward misconduct. The department reports that the Youth Incentive Program (YIP) is designed to achieve some of this by providing additional privileges and incentives for program participation and compliant behavior. However, staff would note that the primary mechanism the YIP uses is time cuts (the opposite of time adds), and it is unclear why these would be any more effective at modifying ward behavior than time adds. Fortunately, other states have developed systems of graduated rewards and punishments that may serve as a model for DJJ.

- ***Profile of Wards Ages 21 and Older.*** It is important to note that according to DJJ data, most wards currently in DJJ who are ages 21 and older have been adjudicated for serious and violent crimes. The most common offenses were assault with a deadly weapon (58 wards), robbery-no enhancement (44 wards), lewd and lascivious acts (32 wards), and robbery-enhanced (28 wards), representing about 51 percent of the 274 wards ages 21 and older identified by DJJ.

- ***Post-Incarceration Supervision.*** Historically, wards who have reached the maximum age of 25 in a DJJ facility have been released to the community with no parole supervision because the state's jurisdiction had expired. Recent legislation, AB 1053 (Solorio), has modified this so that wards are required to receive 3 to 4 months of parole supervision before they have reached 25 years of age and are discharged from state custody. The committee may want to consider what level of community supervision would be appropriate for wards affected by a change in the age of jurisdiction.

- ***Impact on State Prisons and Sentencing.*** Changes in age of jurisdiction and the proposal to transfer some wards to state prison would have an impact on the inmate prison population in two ways. First, the transfers would have a direct impact by taking wards who would otherwise be in a juvenile facility and housing them in state prison instead. In addition, it is possible that a change in age of jurisdiction might affect sentencing practices in some places to the extent that prosecutors and judges do not believe that the potential for a shorter DJJ term would be appropriate for some juvenile offenders and might, instead opt to prosecute those offenders as adults in criminal courts. It is unclear how often this might occur, but it is worth noting that 85 percent of first admissions to DJJ in 2008 were for violent offenses. In addition, it is notable that after the passage of SB 81 in 2007 which limited the types of cases adjudicated in juvenile courts that could result in a DJJ commitment, the percent of cases sent to DJJ from adult courts increased, from 11 percent in 2006 to 24 percent in 2008.

- ***Alternative Approaches to Achieving DJJ Savings.*** Finally, it is worth noting that various organizations have identified other options for how to achieve savings in DJJ. For example, the Little Hoover Commission issued a report in July 2008 titled "Juvenile Justice Reform: Realigning Responsibilities" where it recommended realigning the responsibility and funding for juvenile justice to the counties, in part based on the high state expense, as well as other factors. Similarly, the LAO recommended realignment of DJJ parole to counties, based in part of the high costs of that supervision, as well as the fact that because of the small number of DJJ parolees statewide, DJJ parole agents must cover very wide jurisdictions in many cases. This suggests that they may not be able to effectively supervise and support the successful reintegration of these parolees. It is also possible that there are other actions the Legislature could take to reduce DJJ costs and, therefore, should not feel confined to the administration's proposals. For example, historically DJJ wards have had very high recidivism rates after release, with about three out of every four parolees returning within three years. This suggests that efforts to reduce recidivism could have significant fiscal and public safety benefits.

Staff Recommendation. Hold open.

Issue 3 – Sex Offender Management Board and SARATSO Review Committee

Background. In 2006, the Legislature enacted several bills related to sex offenders. These included AB 1015 (Chu) which created the Sex Offender Management Board within CDCR to assess the department's sex offender management practices and provide recommendations to the Legislature on ways to improve current management practices. The Board released a report of its findings and recommendations earlier this year. In 2009, the Legislature passed SB 588 (Committee on Public Safety) – on a 39-0 vote in the Senate – to eliminate the sunset of the Board.

Also in 2006, the Legislature passed SB 1178 (Speier) which required that all sex registrants undergo a risk assessment referred to as the State Authorized Risk Assessment Tools for Sex Offenders (SARATSO), and that the state provide statewide training on how to implement the risk assessment tool. In 2009, the Legislature passed SB 325 (Alquist) – on a 35-0 vote in the Senate – which expanded the responsibilities of the SARATSO Committee and moved the responsibility for staffing the committee to CDCR.

Governor's Budget Request. The administration proposes $561,000 to fund 3.5 positions (3.3 PYs) and ongoing consulting and training costs to fulfill the requirements of existing laws related to the establishment of the SOMB and SARATSO.

	2009-10	**2010-11**
General Fund	$0	$561,000
PY's	0	3.3

Staff Recommendation. Approve as budgeted. The proposal reflects no additional positions as these positions had already been funded but as limited-term positions. The requested resources are reasonable given the extension of SOMB under SB 588 and the expansion of SARATSO under SB 325.

Issue 4 – Mental Health Program Ratios Staffing

Background. In 2006, the federal court in the *Coleman v. Schwarzenegger* case pertaining to inmate mental health care required the California Department of Corrections and Rehabilitation (CDCR) to develop a new methodology for determining future staffing levels necessary to provide constitutionally adequate mental health care. In response to this court order, the 2006-07 budget package included $750,000 for CDCR to conduct a staffing analysis study along with statutory language that specified that the results of this study would be incorporated in the subsequent budget process. The eventual study, known as the Staffing Analysis Model (SAM), was completed by external consultants and presented to the Legislature in June 2007. In general, SAM takes into account the types of tasks that need to be completed to provide such care, as well as the time it takes and the classification of employees needed to complete these tasks.

Based on the results of this model, the 2008-09 budget authorized 404.7 positions for inmate mental health care—(1) 245.1 mental health positions under the authority of CDCR and (2) 159.6 nursing positions who were under the authority of the Receiver, but intended to provide mental health services. However, the 2008-09 budget did not appropriate additional funding for these positions. This is because CDCR indicated that the positions would be funded temporarily with salary savings. At this time, the department reports that none of the 404.7 positions have been filled.

After further review of the above staffing model, the department now concludes that the SAM developed by the external consultants is unreliable. As a result, the department recently developed a new workload methodology internally in consultation with the Special Master assigned by the *Coleman* court. According to CDCR, mental health clinicians and managers were asked to estimate the staff necessary to deliver an adequate level of mental health services to inmates. The department then used this data, as well as data collected from several other states, to develop staffing ratios for most mental health position classifications (such as psychologists).

Governor's Budget Request. Based on these ratios, the department requests an additional 362.1 positions and funding that will eventually total $77.2 million annually upon full implementation in five years. These positions are in addition to the 245.1 positions authorized for CDCR in the 2008-09 budget, for a total of about 607.2 mental health positions (581.5 PYs). For 2010-11, the Governor's budget proposes a $9.8 million General Fund augmentation to support 73 of the 607.2 positions.

	2009-10	**2010-11**
General Fund	$0	$9,817,000
PY's	0	-187.3

LAO Concerns and Recommendation. The LAO lists four primary concerns with this proposal (described in more detail below). Based on these concerns, the LAO recommends that the Legislature reject this proposal.

- ***Need for New Staffing Methodology Not Fully Justified.*** According to the LAO, the CDCR perceives that SAM is now an unreliable model for estimating mental health staffing needs. Specifically, the department suggests that (1) the model is based on flawed assumptions regarding workload requirements, (2) the external consultants did not adequately consult with CDCR staff as the model was being developed, (3) the model is not transparent and is difficult to update for changes in the mental health delivery program and the size of the inmate population. However, the LAO notes that while the Special Master also raised a similar concern that some of the assumptions in SAM are flawed, he did find the model to be completely functional and adaptable. He recommended that the department address the flawed assumptions and then continue using SAM. Moreover, a report prepared for the department by the consultants that developed SAM appears to contradict some of CDCR's assertions. According to this report, all workload assumptions were validated against the department's own data, as well as against industry standards and comparable data from other states, and reviewed by clinical experts, including CDCR staff. The LAO also notes that the department plans to use its staffing-ratio methodology only for determining the need for certain mental health positions (such as psychologists and psychiatrists). For other types of positions (such as nurses), the department intends to continue using SAM. At this time, it is unclear why CDCR believes that two different staffing methodologies are warranted.

- ***Vacancy Rates Remain High for Certain Mental Health Classifications.*** The LAO's analysis indicates that CDCR may not be able to able to effectively fill all of the requested positions in the timeline outlined by the department, due to the high vacancy rates that currently exist for such positions. More than half of the 607.2 positions that the department is seeking funding for over the next five years are for classifications with vacancy rates of more than 10 percent. For example, 178 positions are for the classification of Licensed Clinical Social Worker, for which the department currently has a vacancy rate of 27 percent. In addition, 39 positions are for the classification of Staff Psychiatrist, for which the department currently has a vacancy rate of 40 percent. Given such high vacancy rates, the requested funding may not be spent as proposed in the budget year to the extent that the requested positions are not filled.

- ***Salary Savings Remain Available.*** The department's initial plan was to fund the roughly 400 mental health positions authorized in the 2008-09 budget temporarily with salary savings. According to CDCR, none of these positions have been filled and $46 million in salary savings from the vacant mental health positions has instead been spent on nursing registry. However, data provided to us by the department indicate that actual salary savings from the vacancies in mental health staff in 2008-09 totaled about $100 million. At the time of this analysis, the department has yet to fully explain how the remaining salary savings were spent and why the $100 million in savings would not be more than sufficient to temporarily offset the General Fund augmentation proposed in the Governor's budget.

- ***State Costs for Mental Health Care Have Grown Significantly.*** The Governor's budget proposes a total of $385 million from the General Fund for mental health services in 2010-11. This is $219 million more than the amount the state spent on such services in 2005-06 — more than doubling expenditures in this area. The increases in General Fund expenditures on inmate mental health care have largely been driven by the need for additional staff (such as pharmacy technicians) and significant increases in employee compensation for existing staff (such as for psychiatrists).

Staff Comments. The committee may wish to have the department respond to the concerns raised by the LAO. Also, it is important to note that while the proposed budget year expenditures are $9.8 million, the total increase to the department's budget over the next five years would be $77.2 million based on the roll-out plan identified. This includes almost 600 newly funded positions. Therefore, the committee will need to weigh the full multi-year costs of this plan in the context of the current and projected fiscal condition of the state budget.

5-Year Proposed Roll-Out of Mental Health Positions and Costs

Fiscal Year	PY	Costs
2010-11	45.4	$9,813,000
2011-12	179.2	$20,802,000
2012-13	169.9	$20,762,000
2013-14	126.9	$19,624,000
2014-15	60.1	$6,240,000
Totals	*581.5*	*$77,242,000*

Staff Recommendation. Hold open.

Issue 5 – Coleman Short Term and Intermediate Custody

Background. The *Coleman* case, filed in 1992, involves allegations that the state prison system provided constitutionally inadequate psychiatric care for inmates. A federal court found the state to be in violation of federal constitutional standards for inmate medical care and established a special master in 1995 to monitor state efforts to remedy the problems. The state implemented a series of remedial actions, which are still continuing.

There are currently about 7,800 inmates in need of mental health treatment that requires some sort of specialized housing. More than two-thirds of these inmates are Enhanced Outpatient Program (EOP) inmates who have significant enough mental health issues that they need to be housed in units separated from the General Population. The department also has about 2,000 inmates who need other types of specialized mental health housing generally based on the acuity their mental health condition.

Governor's Budget Request. The administration requests $6.7 million annually for limited-term positions to provide custody support of 13 short and intermediate mental health housing units. These units are designed to meet the requirements of the *Coleman* court until more permanent mental health housing units and treatment space are activated. The primary duties of the custody staff will be to provide security supervision and escort inmates.

	2009-10	**2010-11**
General Fund	$0	$6,725,000
PY's	0	73.2

Staff Comments. The state has developed a plan to construct and implement permanent housing and treatment space for mentally ill inmates. However, it is likely to take several years before this construction can be completed. In the meantime, it is a priority of the *Coleman* court that mentally ill inmates be provided with adequate treatment in existing facilities. One of the keys to providing such treatment is providing sufficient security staffing to safely escort inmates to and from treatment, recreation time, and other activities.

While security staffing appears necessary to implement the current plans, it is unclear whether the department has identified any offsetting savings associated with the housing units from which the inmates were transferred. The LAO reports that an adjustment for this will be made in the May Revision. The LAO also reports that it is awaiting an updated implementation plan for the activation of the short and intermediate term facilities in this proposal which could also affect the total resources required.

Staff Recommendation. Hold open.

Issue 6 – Correctional Treatment Center, San Quentin Staffing

Background. Last year, the Legislature approved the department's 2009-10 April Finance Letter to staff the Mental Health Crisis Bed (MHCB) Unit at the Correctional Treatment Center (CTC) at San Quentin. The positions approved in that request included 106.6 clinical and support positions.

Governor's Budget Request. The Governor requests an additional 12 positions (11.2 PYs) and $762,000 for support of the MHCB Unit in order to meet Title 22 and Title 24 licensing and programming requirements. The positions requested include three pharmacy and lab personnel, two custodians, five facilities operations staff, and 2 office assistants.

	2009-10	**2010-11**
General Fund	$0	$762,000
PY's	0	11.2

Staff Comments. The department reports that Title 22 and 24 requirements are quite specific with respect to not only treatment staffing levels, but also support staffing requirements. For example, these regulations have specific requirements for the provision of clean and well maintained facilities and provision of meals supervised by a dietitian.

Staff note that three of the requested positions, a materials and stores supervisor and two office technicians are not positions dictated by current regulations. However, the department argues that these positions are necessary to meet operational needs. The committee may wish to direct CDCR to discuss the reasons for these proposed augmentations, and if the positions are required to operate the CTC, whether the department could redirect positions from other places.

Staff Recommendation. Hold open.

Issue 7 – SCAAP

Background. California, along with other states and local governments, receives a share of federal funding under the State Criminal Alien Assistance Program (SCAAP). This program reimburses jurisdictions for the costs associated with the incarceration of undocumented immigrants. The SCAAP funds received are deposited into the General Fund. The administration estimates that the state will receive about $90.6 million in SCAAP funds in 2010-11 but that the state incurs total costs of about $970 million annually to house undocumented immigrants.

Governor's Budget Request. The Governor's budget assumes that the federal budget will include full reimbursement to California for the incarceration of undocumented immigrants under SCAAP, totaling additional revenues of about $880 million.

These additional federal revenues count towards the administration's proposed "trigger" cuts, which if not achieved, would result in additional budget reductions across various departments and programs.

	2009-10	2010-11
Federal Fund	$0	$879,728,000 (revenues)
PY's	0	0

Staff Comments. It seems unlikely that the federal budget will include a significant enough appropriation to provide California with full reimbursement of its costs. Historically, the total federal appropriation has been less than $400 million dollars annually each of the last several years.

Staff Recommendation. Hold open pending assumed receipt of hundreds of millions of dollars of additional federal funds.

Issue 8 – Population

Background. The department provides the Legislature with a budget request twice a year, as part of the Governor's budget proposal in January and as part of the May Revision, that is designed to identify costs and savings associated with changes in department adult and juvenile caseloads.

Governor's Budget Request. The administration requests a total of $624 million in the current year and $513 million in the budget year due to projected changes in population caseload and related factors. The following two tables break out these totals by Fund and Issue. The current year and budget year estimates will be updated as part of the May Revision.

Population Budget Requests by Fund

	2009-10	2010-11
General Fund	$626,333,000	$518,854,000
General Fund – P98	-$2,184,000	-$4,808,000
Reimbursements	$9,000	$13,000
Inmate Welfare Fund	$13,000	-$170,000
Totals	*$624,170,000*	*$513,889,000*
PY's	2,223.9	587.3

Population Budget Requests by Issue

Requests	2009-10	2010-11
Legislative population reforms	$614,882,000	$367,342,000
Revocation workload	$858,000	-$5,244,000
Caseload adjustments	-$24,452,000	-$2,365,000
Stark activation as adult facility	$28,615,000	$42,178,000
Nor. Cal. Reentry Facility	$0	$8,387,000
Out-of-State beds	-$128,000	$2,244,000
Local assistance	$6,348,000	$122,654,000
Juvenile justice	-$1,952,000	-$21,305,000
Totals	*$624,170,000*	*$513,889,000*

Staff Comments. The population adjustment includes several changes, many of which will be adjusted in the May Revision based on additional data.

- ***Legislative Population Reforms.*** These costs reflect the additional costs associated with legislative actions taken in the 2009-10 budget that the department project will not materialize for various reasons. For some issues (e.g. alternative custody, updating the threshold for grand theft), the necessary legislation was not enacted. For other issues (e.g. program completion credits, summary parole), the implementation date did not occur until January 2010. For still other issues (e.g. ICE commutations, alternative sanctions) the department does not believe it will be able to fully implement the programs to achieve the estimated savings.

- ***Revocation Workload and Caseload Adjustments.*** The department identifies several areas where they project some change in underlying workload and caseload based on trend data available, for example related to parolee revocations and the mentally ill inmate and parolee populations. These adjustment do not take into account the recently enacted legislative changes, though the department has stated to staff that it will continue to monitor these workload and caseload issues and make updates in the May Revision.

- ***Stark Activation as an Adult Facility.*** The department plans to convert the DJJ Stark DJJ facility (Chino) to an adult facility. As of this week, all wards have been moved out of the facility to other juvenile facilities in the state, and inmates have begun to be transferred to the facility, particularly after the Fall riot at the California Institution for Men which resulted in significant damage to several housing units. The department has informed staff that this estimate is still being developed and will undergo significant revision in the May Revision.

- ***Northern California Reentry Facility (NCRF).*** In November 2010, the department plans to activate the first 100 beds at the Northern California Reentry Facility (Stockton) and populate those beds with Level I inmates. The LAO raises several concerns with this proposal, particularly with high cost per inmate ($84,000 per year) and the fact that these lower level inmates are not the ones at highest need for the more intensive rehabilitation program that will be provided at the facility. Based on these conclusions, the LAO recommends the Legislature consider rejecting the early activation of these beds in 2010-11.

- ***Out of State Beds.*** The administration proposes to expand the number of inmates housed in out-of-state facilities by 2,336. There are currently about 8,000 inmates housed out of state now. The LAO raises several concerns with this proposal, including that several of the positions and requested overtime funding is not fully justified, and that there have been delays in the implementation schedule. Based on these findings, the LAO recommends further reducing the department's request by $547,000 in the current year and $2.1 million in the budget year related to the overage of positions and overtime costs, and wait until the May Revision to see what revisions have been made to the implementation schedule.

- ***Local Assistance.*** The department requests significant one-time and ongoing funding to reimburse counties for costs related to housing offenders in local jails, particularly parole violators. The request includes $86 million to offset a backlog of payments from the last year and current year, as well as a permanent $15 million augmentation for this program. In addition, the department requests a one-time $10 million augmentation for new prison commitments housed in county jails more than five days after notification to CDCR that the inmate needs to be transferred to prison, as allowed under current law. Historically, counties have not charged CDCR for these costs, but CDCR reports having begun to receive such invoices this year. The LAO recommends withholding action on this issue until the May Revision until more information is available on the number of invoices that come from counties. The LAO further recommends that the committee direct the department to explain what they are doing operationally to ensure that inmates are being transferred from counties to state prison in a timely fashion.

- ***Juvenile Justice.*** The department has identified savings associated with the closure of Stark as a juvenile facility, the consolidation of living units, fewer parolees, and the implementation of a new staffing model. In addition to the savings identified in the population request, CDCR's implementation of a new business staffing model is estimated to generate $16 million in current year savings and $38 million in budget year savings which were scored towards the department's $100 million unallocated budget reduction in the 2009-10 Budget Act.

Staff Recommendation. Hold open pending May Revision. The department has noted that several of these requests will be adjusted further in the May Revision based on additional current year caseload data.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, March 11, 2009
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultants: Kris Kuzmich and
Bryan Ehlers (FI$Cal)

Item Number and Title **Page**

Discussion Items

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

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 and public safety emergency communications systems for all state departments. The OCIO was created under Chapter 183, Statutes of 2007 (SB 90—Budget Trailer Bill). On May 10, 2009, the Governor's Reorganization Plan No. 1 (GRP 1) took effect consolidating statewide information technology (IT) functions under the Office of the State Chief Information Officer.

The Governor's Budget provides the OCIO with 1,331.2 authorized positions and $470.8 million (including $4.1 million GF). The Governor's Budget also contains the final phase of the consolidation of IT related activities and personnel under the OCIO pursuant to GRP 1, representing an increase of 394 positions to reflect the transfer of employees from DGS' Public Safety Communications Division.

VOTE ONLY ITEM:

1. BCP-6: Public Safety Communications Division: Emergency Telephone Users Surcharge. The Governor requests an increase in expenditure authority of $88,000 (State Emergency Telephone Number Account - SETNA) for state operations and $2 million (SETNA) for local assistance and one two-year limited term full-time position (July 1, 2010 through June 30, 2012) to provide one-time grants to primary Public Safety Answering Points (PSAPs) for recruitment and training of 911 dispatchers as authorized by Chapter 489, Statutes of 2009 (AB 912).

Background. The Public Safety Communications Division administers California's 911 program which involves a variety of associated functions specific to 911, including, but not limited to, review and approval of equipment and services, system compliance evaluation, and reimbursing PSAPs for costs associated with the planning, implementation, and maintenance of a state-approved 911 system. There are approximately 470 PSAPs operating throughout the state. The SETNA account has a 2009-10 fund balance estimated at $125.8 million after total expenditures of $125.6 million on total resources of $253.5 million. In 2010-11, the SETNA fund balance is estimated at $103.4 million after total expenditures of $129.4 million on total resources of $232.8 million.

Staff Comments. This is a new program for the 911 office. Therefore, notwithstanding the committee's general prejudice against new positions due to the state's current fiscal crisis, the OCIO staff has made a compelling case that the workload generated by the new statutory requirements is not absorbable within existing staff resources while continuing to meet current workload demands. Further, the OCIO has taken a conservative approach, in that the proposed additional position is limited term and will expire when the workload subsides soon after the December 31, 2011, statutory sunset of the program authority. Additionally, the position is a fire/life/safety issue.

Staff Recommendation: APPROVE.

VOTE: Approved on a 2-0 vote. Harman absent.

DISCUSSION ITEM:

1. Trailer Bill Language: Technology Services Revolving Fund. The Governor proposes trailer bill language to make certain statutory changes necessary to continue implementation of GRP 1 related to IT consolidation.

Background. In adopting GRP 1, numerous statutory changes were made including renaming and transferring the Department of Technology Services (DTS) from the State and Consumer Services Agency to the OCIO. Additionally, the "Department of Technology Services Revolving Fund" was renamed the "Technology Services Revolving Fund." GRP 1 also transferred duties related to the state's procurement of information technology from the Department of Finance, the Department of General Services, and the DTS to the OCIO.

The proposed trailer bill: (1) authorizes the TSRF to receive revenues for services rendered by the office of the OCIO; (2) authorizes the OCIO to collect payments from public agencies for services requested from, rather than contracted for, the OCIO; and (3) revises the conditions used to determine whether a balance remains in the TSRF at the end of a fiscal year to limit the amount that is used to determine a reduction in billing rates.

Staff Comments. The first and third components of the trailer bill are technical and conforming. The first component updates statute to reflect name changes due to GRP 1 and consolidation of IT functions under the OCIO. The third component is necessary due to the fact that under GRP 1 the revenues in the TSRF are no longer solely generated by DTS. Therefore, the conditions used to determine whether a balance remains in the TSRF at the end of the fiscal year, for purposes of determining a reduction in DTS billing rates, needs to be limited to only the subset of revenues generated by DTS.

The second component of the trailer bill authorizes the OCIO to collect payments from public agencies for services requested from, rather than contracted for, the OCIO. OCIO staff made a compelling case for this authority, which is more akin to that of a control agency. The language effectively moves toward a direct billing model and will, in part, address DTS cash flow issues that have arisen due to delays in receipt of state agency/department payments for services rendered. This direct billing model also addresses costs associated with one state department billing another (i.e., an accounts receivable situation with associated cost drivers).

Staff Recommendation: APPROVE.

No vote taken. Item put over to a future hearing.

2. Oversight: Implementation of Governor's Reorganization Plan No. 1

Background. As noted above, on May 10, 2009, the Governor's Reorganization Plan No. 1 (GRP 1) took effect and consolidated statewide IT functions under the OCIO. At that time, the Administration indicated the 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.

8th Extraordinary Special Session. With the passage of ABx8 2, the Legislature recognized savings of at least $140 million GF in the 2010 Budget Act to reflect IT and related savings achieved by state agencies pursuant to GRP 1. These savings build upon the $100 million in primarily ongoing GF savings scored in the 2009 Budget Act (also reflective of the implementation of GRP 1). The Governor subsequently vetoed this bill on March 8.

LAO Comments. In its analysis of GRP 1 last year, the LAO noted several issues for consideration including that details were lacking in the plan about how it would achieve the stated level of cost avoidance. The LAO agreed that there would be some cost avoidance in the short term, once IT functions and resources are streamlined and statewide IT policies are standardized. However, without further details on the Administration's estimates of cost avoidance, the LAO could not comment on their accuracy.

The LAO also noted a concern that specific information technology project management goals were largely absent from the GRP, yet this is a crucial function of the OCIO. At that time, the OCIO indicated plans to develop a project management academy and establish a Project Management Office within the OCIO. The LAO also noted that creating a cadre of state workers to conduct project management would have statewide benefits by addressing the state's lack of this particular expertise.

Staff Comments. Nearly ten months have passed since the adoption of GRP 1. In that time, the OCIO has made great strides in achieving the savings goals recognized by the Legislature. The OCIO testified briefly to this fact during the February 10, Senate Budget Committee hearing in the Special Session. At that time, the LAO also testified that the OCIO had made progress in achieving the projected cost savings. At today's hearing, both the LAO and OCIO will make presentations related to the implementation of GRP 1. The subcommittee will consider savings achieved (and yet to be achieved), performance metrics achieved (and yet to be achieved), and the OCIO's project management efforts to date. To aid in the subcommittee's consideration of this issue, the OCIO provided three charts (see below) that illustrate cost savings and performance metrics related to GRP 1.

Committee Questions. As the subcommittee considers the status of GRP 1, the Committee may wish the OCIO and Administration to respond to the following questions:

1. As detailed in the first chart, can the OCIO provide specific examples how, for instance, State and Consumer Services achieved $9 million in savings? How much of this figure is ongoing versus one-time?
2. Savings are either one-time or ongoing. For the savings achieved to date, what percentage is one-time versus ongoing? Will that ratio change over time?

3. How does the Administration plan to “score” the savings? For example, what portion will be taken out of department and Agency budgets by reducing their appropriations, and what portion does the Administration propose to redirect?
4. With regard to the performance metrics, why are these metrics appropriate and what do they tell us? How do these metrics connect to the Governor’s recent Executive Order intended to further improve the state’s IT systems?
5. One of the functions consolidated in GRP 1 was “human capital management.” Could the OCIO briefly describe the changes that have been implemented with regard to IT human capital? What have been the challenges, particularly with regard to changing the culture among the former employees of Department of Technology Services and Department of General Services’ Telecommunication Division with the consolidation?
6. Increased consolidation and standardization are expected to increase the state’s leverage over procurements. This will almost certainly increase the size of some procurements such that some smaller vendors may have more difficulty competing in the new procurement environment. How have procurements been affected, and how has the OICO struck a balance between ensuring equity in the process while seeking the best possible price for the state?
7. IT project management has been an identified weakness in California. How has the OICO addressed this issue in the past ten months? How has the OCIO used project management resources to address projects like 21st Century and FI$Cal?

2. Oversight: Implementation of Governor’s Reorganization Plan No. 1

A. General Fund Savings

FY 2009-10 Information Technology Savings*
Summary by Agency
(dollars in thousands)

Orgs	General Fund Savings
0510 State & Consumer Services	9,013
0520 Business, Transportation & Housing	3
0530 Health & Human Services	11,601
0540 Natural Resources	249
0555 Environmental Protection	11
0559 Labor & Workforce Development	1,029
5225 Corrections & Rehabilitation	11,301
8950 Veterans Affairs	525
8570 Food & Agriculture	284
0502 Office of Chief Information Officer	1,314
Var Other Orgs	1,370
Total Savings	**36,700**
Savings to Achieve	**93,000**

*Through February 24, 2010

IT Cost Savings

General Fund Cost Savings by Fiscal Year

($ in Millions)

Strategy	**FY 2009-10 Actuals**	**2010-11 Target**	**2011-12 Target**	**2012-13 Target**	**2013-14 Target**	**Five-Year Total**
Rationalize the State's IT Infrastructure – Standardize Office Automation Tools	0.80	8.94	17.87	17.87	17.87	63.35
Rationalize the State's IT Infrastructure – Maximize existing data centers capacity	1.20	0.00	9.00	18.00	27.00	55.20
Rationalize the State's IT Infrastructure – Servers	0.00	25.74	51.48	51.48	51.48	180.18
Rationalize the State's IT Infrastructure – Storage	0.00	16.50	33.00	49.50	49.50	148.50
Constructive Project Oversight Strategies	3.90	7.70	7.70	7.70	7.70	34.70
Rationalize the State's IT Infrastructure – Network Unification	2.50	3.30	4.95	6.60	6.60	23.95
Cost and Spending Control Program (reduce non-project IT spending [$800 million] by 10 percent)	18.60	44.00	44.00	44.00	44.00	194.60
Strategic Sourcing and Contract Consolidation Program	5.00	12.38	12.38	12.38	12.38	54.50
Constructive Project & Portfolio Management Strategies	4.70	27.50	27.50	27.50	27.50	114.70
General Fund Savings	**36.70**	**169.70**	**207.88**	**235.03**	**244.03**	**962.96**

B. Performance Metrics

Operational Efficiency & Effectiveness

Metric	Baseline	Target	Status 02/10
IT Expenditures as percent of Operational Expenses (FY)	6.00%	5.80%	TBD
IT Expenditures per Employee (FY)	$13,333.33	$12,444.44	TBD
Total Expenditures (FY)	$3,000,000,000	$2,800,000,000	TBD
Annual Savings (FY 09-10 - GF)	N/A	$29,700,000	$30,923,000
Server Consolidation & Virtualization (Total # of Servers)	10,000	5,000	8,214
Data Center Capacity Planning & Space Maximization (Square Footage)	364,000	182,000	337,500
Percent of Projects delivered on time and within budget (3-year sample - FY 05-06 to FY 07-08)	58.00%	80.00%	58.00%
Percent of Projects Completed within budget (3-year sample - FY 05-06 to FY 07-08)	75.00%	85.00%	75.00%
Percent of Projects delivered on time (3-year sample - FY 05-06 to FY 07-08)	68.00%	80.00%	68.00%
Percent of Project Managers Trained in CA Project Management Methodology (reportable projects)	N/A	100.00%	20.00%
Energy used (MWh/year)	170,000	125,000	153,000 est
Carbon Dioxide Emissions (Metric Tons)	85,000	50,000	76,500 est

Security & Reliability

Metric	Baseline	Target	Status 02/10
Total number of electronic data breaches (per year)	90	9	99 (2009)
Total number of website compromises (per year)	70	7	151
Number of state agencies with Current IT Disaster Recovery Plans (per year)	84.86%	100%	91%
System availability	99.00%	99.90%	99.90%
Network availability	92.70%	99.00%	99.80%

Service & Employee Satisfaction

Metric	Baseline	Target	Status 02/10
Public satisfaction with online services	3 out of 5	4 out of 5	3.5 out of 5
Service Level Agreements met	Mainframe & Network	90.00%	90.00%
Attrition (non-retirement)	12.00%	10.00%	9.60%

C. Informational Technology Project Management

Staff Comments. Following presentations by the LAO and OCIO on project management, the subcommittee will have before it two specific large scale IT projects in different stages of the procurement and deployment process: (1) Financial Information System for California (FI$Cal) and (2) 21st Century Project (State Controller's Office), both of which include budget items in the 2010-11 Budget.

D. 0840 State Controller: 21st Century Project

Background. The SCO pays approximately 249,000 employees, including state civil service, California State University and Judicial Council employees, judges, and elected officials. The 21st Century Project (Project) will replace the existing statewide human resource management systems in order to improve management processes and fulfill payroll and reporting obligations accurately and on time. The Project began in May 2004 and is currently projected to end in 2012-13; the current estimated total cost (one-time and continuing) is $307.8 million and the potential recovery of a performance bond from the prior systems integrator is anticipated to offset that cost by $25 million.

In January 2009, the State terminated the contract with BearingPoint, the Project systems integrator, for failure to meet contractual commitments. After contract termination, the SCO developed a "go-forward" strategy to complete implementation of the Project. The major change in this strategy included revising the scope of the Project to exclude CSU employees, which the SCO indicated will be addressed in a separate project at a future time. This revised approach was included in Special Project Report No. 3 which was approved by the Office of the Chief Information Officer (OCIO) in May 2009. The SCO then began the process to procure a new systems integrator to complete the Project. <u>The 2009-10 Budget included $22.4 million (including $7.2 million GF over and above the $9.6 million GF contained in the 2009-10 Budget adopted in February 2009) and seven positions for re-procurement and continuation of the Project</u>. The SCO has since completed the procurement and selected SAP Public Services, Inc., as the new systems integrator. The new contract includes the system integrator services and supplemental software tools necessary for the completion of the Project.

On January 21, 2010, the Joint Legislative Budget Committee (JLBC) approved a Control Section 11.00 request from the SCO related to the Project. This Section 11.00 request was based on the OCIO's December 16, 2009, approval of Special Project Report No. 4 for the Project which delineated several contract changes and cost adjustments. In its letter approving the SPR, the OCIO specified several conditions for the Project including submission of a detailed cost tracking report on a quarterly basis.

<u>In the 2010-11 Budget, the Governor requests 111 two-year limited-term positions and $66 million ($30 million GF, $1 million reimbursements, and $35 million special fund) in 2010-11 to continue the implementation of the 21st Century Project which will result in an integrated human resource management system that will replace the existing payroll, employment history, position management and leave accounting legacy systems (BCP 7).</u>

As noted, the JLBC approved the Section 11.00 request. However, due to the magnitude and complexity of the Project, the JLBC requested that the SCO provide the

Legislature with regular updates as the Project progresses, including the quarterly cost tracking report that is provided to the OCIO. Additional requested information included updates on the status of the Bearing Point litigation and more information about how the Project is managing risks that could impact the performance of the system or the cost of the Project.

Staff Comments. The need to transition the State from a transaction-based system to an enterprise database system that supports the business needs of state government is clear. The key question before the Legislature with regard to the 21st Century Project is risk management in the deployment, including transition and training, for the new human resources system. Significant organizational change management activities will have to be undertaken to assist more than one hundred and sixty state departments to transition to the new system. Additionally, staff notes that in light of state budget cuts, a reasonable question can be raised about the capacity of departments to participate in system transition activities. In short, it is critical for the Project to have a comprehensive plan for working with departments to ensure a successful transition.

Committee Questions. Based on the above comments, the Committee may wish the Administration and SCO to provide responses to the following questions:

1. When can the Legislature expect delivery of the first quarterly cost tracking report on the 21st Century Project? Are expenditures to date on track and within budget?
2. What is the current status of the BearingPoint litigation, including the $25 million performance bond?
3. The 21st Century project will be "rolled out" in waves. When does the first wave go live? Which state departments are included in the first wave?
4. Has the SCO developed a comprehensive deployment plan including transition activities? Can the SCO summarize the organizational change management activities that will have to be undertaken as the 21st Century Project progresses?

Staff Recommendation: APPROVE BCP 7 to continue the 21st Century Project.

VOTE: Approved on a 2-0 vote. Harman absent.

E. 8880 Financial Information System for California (FI$Cal)

Background. The Financial Information System for California (FI$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to create and implement a new statewide financial system which will encompass the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset accounting, project accounting, and grant accounting. As an ERP system, FI$Cal will be a set of software applications that will integrate and streamline the aforementioned business processes, and, in so doing, replace aging legacy systems, inefficient "shadow" systems, and duplicate processes throughout the state's departments and agencies.

The following is a recap of the previous five years in the history of this project. For more information on this year's budget proposal, see the underlined paragraph below.

Beginnings: 2005-07 – The precursor to FI$Cal, the Budget Information System (BIS), was originally conceived as a Department of Finance (DOF) project to replace legacy budget systems with a single, comprehensive budget system, and was first funded in Fiscal Year (FY) 2005-06 with $1.8 million GF. BIS was intended to interface with the many existing departmental systems, notably the State Controller's Systems and the California State Accounting and Reporting Systems (CALSTARS); however, during ensuing discussions and workshops across statewide government in 2006, the Administration determined that building BIS to fit existing business systems would limit the state's ability to efficiently manage and report on its business operations and to allocate its resources in the most effective manner. Consequently, the Governor proposed the totally re-scoped project, renamed FI$Cal, in the 2007-08 Governor's Budget.

FI$Cal First Introduced: 2007-08 – As envisioned in 2007-08, FI$Cal would take eight years to develop at a total cost of $1.3 billion ($788 million GF), and would be managed by a partnership of control agencies: DOF, the Department of General Services, the State Controller's Office, and the State Treasurer's Office (henceforth, the partner agencies). However, due to a number of factors including GF expense, the Legislature requested more information on alternative funding scenarios, vendor accountability, and formalization of control agency roles. Thus, in the *2007-08 Budget Act*, the Legislature appropriated $6.6 million for the FI$Cal system for further planning and adopted budget language requiring (1) the Bureau of State Audits to independently oversee the FI$Cal system and (2) the administration to deliver a series of reports to the Legislature addressing planning, implementation, and funding issues.

Funding and Phasing FI$Cal: 2008-09 – The Administration returned in 2008-09 with a revised special project report (SPR) that was generally responsive to the requirements of the budget act. Under the revised plan, the project schedule was extended by two years, reflecting increased planning efforts, and the cost estimate was adjusted upward accordingly from $1.3 billion to $1.6 billion. The revised proposal included a plan to roll-out FI$Cal to more than 100 state departments and agencies in five "Waves", over a multi-year period, and, importantly, it addressed the funding issue by proposing a financing plan reliant on Bond Anticipation Notes (BANs) and Certificates of Participation (COPs). The project plan anticipated repaying the two- to three-year BANs with ten- to twelve-year COPs to be purchased by departments once they received the benefit of an operating system.

During the spring 2008 subcommittee process, the Legislature adopted the LAO's recommended changes to the Governor's proposal. This included: (1) approval of $40 million for FY 2008-09 (including $2 million GF and a $38 million loan from the GF); and (2) a two-phase approach in which system roll-out would initially occur in only eight key departments, followed by a "pause" to allow the Legislature to assess the project status and make a final determination before proceeding with the remainder of the project.

Reevaluating and Revising: 2009-10 – Due to a late budget and concerns raised by the Legislature, the Office of the State Chief Information Officer (OCIO), and the partner agencies, in early 2009 the project contracted with ERP experts (Grant Thornton, LLP) to review various project elements, including objectives, the implementation approach, and the procurement approach. Although this review did not result in any changes to the overall project scope (the intent was still to overhaul statewide financial systems), it did trigger two significant changes: (1) a new implementation strategy aimed at reducing up-front costs and risks by reducing the functionality in the first wave of implementation (to core accounting functions only); and (2) a new, two-step procurement strategy in which interested bidders would have an early opportunity to extensively review the state's needs and then compete (based on a "fit-gap" analysis) for an opportunity to enter a formal project proposal in the second phase of procurement. Although the official updated project plan (SPR 3) was not yet available when 2009-10 budget deliberations closed, the Legislature approved continued funding of FI$Cal, but required a report from the project following the fit-gap analysis but prior to award of the prime vendor contract.

The Governor's Proposal: 2010-11 – Consistent with SPR 3, the Governor requests $38.4 million (including $2.2 million GF; renewed authorization for $13.8 million short-term GF; and $22.4 million from various special funds) for ongoing support of 82 authorized FI$Cal positions. Additionally, the Governor requests 74 supporting positions and associated funding in other state departments, including the partner agencies. Based on SPR 3, approved by the OCIO on November 19, 2009, the official overall cost to deliver FI$Cal remains approximately $1.6 billion over a total of 12 years. However, as noted above, the project has adopted (at least in concept) a couple of key changes that could eventually alter both the project cost and timeline:

- First, the Administration proposes a new implementation strategy involving a more limited initial roll-out in Wave 1 (including fewer staff and reduced costs). This would add approximately one year to Wave 1 implementation, but SPR 3 does not re-estimate the project timeline or costs because the implementation plan will not be validated until it is presented in a subsequent project revision (SPR 4) following the fit-gap analysis—which is part of the second major project change (see the next bullet).

- Second, the project has adopted a two-step procurement strategy (similar to the one used on the 21st Century project) that includes an open procurement for a Firm Fixed Price fit-gap analysis to three top bidders (in FY 2010-11), followed by the actual fit-gap analysis in which the bidders have nine months to review potential gaps between their software and the state's business requirements. Each bidder receives a fixed price for production of a detailed implementation plan, including all costs to carry out the plan. At the end of the process, the state could have three entirely viable FI$Cal proposals from which to choose. The Administration currently estimates the prime vendor contract award will take place on December 20, 2011.

Staff Comments: To date, the state has spent approximately $40 million on the FI$Cal project (because not all prior authorizations were expended due to budget delays and project revisions). Although, after approximately five years, the project remains in its early phases, $40 million is a relatively small down payment (less than three percent) on a system whose cost is projected to wind up in the neighborhood of $1.5 billion. It is worth noting that, in retrospect, the Legislature was probably wise to "look before leaping" on a project of this magnitude, not only because the GF would have been hard-pressed to support its share of costs over the past several years, but because earlier incarnations of the project plan were fraught with unnecessary risk.

Although a formal analysis has not yet been published, the LAO will provide a hand-out that will highlight key decision points for the Committee's consideration as well as recommendations. In addition to these recommendations, staff would note the following:

- The **status quo is not tenable** either from a reliability or a cost-effectiveness standpoint. The state's existing legacy systems (many of which are at least 30 years old) become increasingly decrepit with each passing year and plan's must be made to replace them.
- IT implementation is less than an exact science, and a project of this magnitude is unprecedented in California. A large-scale, wholesale overhaul of all of the state's financial systems is inherently costly, time-consuming, and risky. Therefore, as in year's past, the Committee members should look to balance the need to press forward with the desire to **contain costs** and **mitigate risk**. For example, the recently revised implementation approach is more cautious in that Wave 1 will only roll-out core accounting functions at a handful of departments. This approach may take slightly longer, but will reduce risks of future delays and cost over-runs by allowing the project to incorporate lessons learned before moving on to future waves. Similarly, it appears the two-step procurement process will cost a little bit more and take a little longer in the near-term, but will save money and time in the long-run by generating more competition than the traditional bidding process, and by allowing vendors to better know what the state needs (thus avoiding costly change orders in the midst of implementation).
- The Administration now indicates that **bond-financing is not an option for funding FI$Cal**. Although, in an ideal world, the state would "pay-as-it-goes," the current fiscal climate does not readily align with the urgency with which the state needs to begin replacing aging systems. Therefore, a viable alternative financing strategy is a key project hurdle. The Committee should withhold any funding decision until all financing options have been fully vetted and a fiscal "way forward" is apparent.
- Given the importance of the systems in question and the size of the tax-payer investment on the line, **the Legislature should seek to maintain its project oversight**, fiscal and otherwise, to the greatest degree feasible. Among other things, this means ensuring that the project comes before the Legislature at key decision points during the process. For example, previous language adopted in budget trailer bill specified that the project must halt after Wave 1 of implementation in order to provide a period of legislative review before embarking on further implementation (and the incursion of the bulk of project costs).

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

1. Based on the revised project plan, what are the greatest risks to the project?
2. What financing options is the project exploring and what are their pros and cons?
3. What has been the response thus far in the vendor community to the revised project plan?
4. Given the project's somewhat tortured path to-date, and uncertainty regarding its funding future, how has the project managed in recruiting and retaining skilled personnel (arguably the single most important ingredient in pulling off an IT project of this size and duration)?

Staff Recommendation: HOLD OPEN pending additional information on a long-term funding strategy; a published LAO analysis and recommendation; and an updated forecast of the state's fiscal outlook (including GF revenues).

0840 State Controller

The State Controller is the Chief Fiscal 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 1,479.3 authorized positions and $221.8 million (including $73.2 million GF). This is an increase of 26.8 positions and $16.6 million GF.

VOTE ONLY ITEM:

1. BCP-1: Mandate Audit Workload. The Governor requests $1 million GF in 2010-11, and ongoing, to perform compliance audits of mandate claims.

Background. The Mandated Audits Bureau within the SCO is primarily responsible for conducting compliance audits of claims submitted by cities, counties, community colleges, and school districts. Major program elements include audits of mandated cost and criminal homicide trial reimbursement claims. The compliance audits determine whether costs claimed were supported by appropriate documents, funded by another source, or unreasonable and/or excessive.

Over the past two years, the SCO audited approximately 1.8 percent of the total number of annually filed claims, representing 23 percent of the dollar amount of annually filed claims. With the proposed funding in this item, which translates to an additional 25 audits completed annually, the SCO anticipates auditing approximately seven percent of the total number of annually filed claims and 30 percent of the dollar amount of annually filed claims. Without these additional audit resources, the SCO indicates that the mandate claims would otherwise go unchecked and potentially cost the state $29 million. This cost savings estimate is based on SCO historical data that identifies $29 in audit findings for every $1 invested in audit costs. The audit findings are realized through subsequent offsets of state GF payments to local governments.

In Audit Report 2009-501, released in October 2009, the State Auditor found that "*the continuing high level of audit adjustments for some programs indicates that the state could save more money if the SCO were able to fill 10 vacant audit positions*."

2009-10 Budget Actions. In signing SBX3 1 (the 2009-10 budget adopted in February 2009), the Governor vetoed ten percent of the SCO's personal services budget (across all items of appropriation, including $4.7 million GF) in order to ensure equity with state employees in other departments receiving compensation reductions through furloughs, overtime reform, and elimination of two state holidays. The Legislature subsequently approved a May Revise request to redistribute the 2009 Budget Act Veto and in order to restore $987,000 GF.

Staff Comments. The operative effect of this item is to restore ten audit positions that were eliminated as part of budget actions taken by the SCO to absorb the ten percent cut in its personal services budget as a result of the Governor's veto in February 2009. Prior to this veto action, the SCO had 44 mandate auditors. Notwithstanding the committee's general prejudice against new positions due to the state's current fiscal crisis, especially those funded from the GF, staff generally agrees that failure to audit and submit reports identifying overstated mandate claims places the SCO and the State in a position of neglecting their custodial and fiduciary responsibilities to taxpayers. Additionally, restoring these audit positions will generate cost savings.

Staff Recommendation: APPROVE.

VOTE: Approved on a 2-0 vote. Harman absent.

DISCUSSION ITEMS:

1. BCP-5: Disproportionate Share Hospital Program Audits. The Governor requests $1.092 million (reimbursements) for 2010-11 and $1.052 million (reimbursements) ongoing to perform audits for the Department of Health Care Services' Disproportionate Share Hospital program.

Background. The federally funded Medicaid Disproportionate Share Hospital Payment Program (DSH) was established by Congress in 1981 to assist hospitals that serve a large number of Medicaid (Medi-Cal in California) and low-income patients. Through the DSH program, the state pays the hospital a DSH payment that is in addition to the standard Medicaid payments. The state then submits a reimbursement claim for the Federal Financial Participation share from the federal government. On January 19, 2009, the federal government finalized the rulemaking to implement the reporting and auditing requirements for state DSH payments.

The federal government provides approximately $1.2 billion annually to California which funds approximately 155 DSH hospitals. The Department of Health Care Services (DHCS) has requested that the SCO perform the federally required audits. DHCS has agreed to fully fund the cost of the audit program for the first two years; federal reimbursement will be provided to cover the state's costs associated with the auditing requirement. Beginning December 31, 2010, failure to submit audits to the federal government could jeopardize future federal DSH funding.

Staff Comments. This is a new audit requirement and the costs of the audits will be reimbursed by the federal government. This item, however, requests *ongoing* budget authority while DHCS has only agreed to fully fund the cost of the audit program for the first two years. Therefore, staff recommends that the subcommittee approve this budget item but designate the positions as two-year limited-term to allow the Legislature to revisit this issue in two years time when DHCS will also be reviewing the DSH audit program.

Staff Recommendation: APPROVE <u>but designate the positions as two-year limited-term</u>.

VOTE: Approved on a 2-0 vote. Positions designated as two-year limited term. Harman absent.

2. BCP-6: Increased Accounting and Reporting Workload. The Governor requests $500,000 ($250,000 GF and $250,000 special fund) in ongoing funding to manage the increased workload in the SCO Division of Accounting and Reporting related to (A) Cash Management, (B) Reporting, and (C) Actuarial Advisory Support.

	Cash Management 2.0 AA II	**Financial Reporting 1.0 AA I Spec**	**CA Actuarial 1.0 AA II, .5 OT & .5 Sr. Program Analyst**	**Total**
General Fund	107,079	47,500	95,421	$250,000
Special Fund	107,079	47,500	95,421	$250,000
Total	**$214,158**	**$95,000**	**$190,842**	**$500,000**

A. Cash Management.

Background. The SCO is responsible for the daily reconciliation of the State's GF, which is the principal operating fund for the majority of the State's activities. Workload in this area has increased along with the state's fiscal crises. The increased workload was recognized as part of the 2008 Budget Act; along with Department of Finance and the State Treasure's Office, who also have responsibility for cash management, the SCO received an additional position. The SCO presents that workload has only increased since that date and the Cash Management Unit has averaged 250 hours per month in overtime work over the past 14 months. Due to continuing demands on the SCO's cash management staff over the past year, the SCO is requesting resources to cover workload in areas such as payment accountability, daily cash projections, borrowable/non-borrowable resource accountability, reporting, and improving processes for the future.

LAO Comment. We find that SCO staff has managed to handle recent cash crises as well as can be expected. The increased cash management workload for the office is largely cyclical in nature. There always will be certain times during a cyclical economic downturn when additional hours may be needed. Moreover, some elements of this request, such as exhaustive analysis of legislation, are unnecessary or duplicative of existing efforts (for example, the Department of Finance performs many of the same exercises already). The SCO should be able to use existing staff and available resources to manage its cash management responsibilities throughout the year. Especially in light of the state's fiscal condition, we recommend denying this request for additional resources.

Staff Comments. The SCO is responsible for the daily reconciliation of the State's GF. It is inarguably one of the office's most important duties. While cash management will continue to remain a priority in the foreseeable future, staff is unconvinced of the need for additional resources.

Staff Recommendation: DENY.

B. Financial Reporting.

Background. The SCO provides fiscal controls for, and independent oversight of, more than $100 billion in receipts and disbursements of public funds. A major part of these duties include gathering, reviewing, and publishing the annual reports of financial transactions of all local governments in California, as well as the establishment and oversight of uniform accounting policies and procedures for local governments. Local agencies are subject to specific forfeiture provisions in statute that require payments to the State for failure to file financial reports with the SCO. More than 1,100 hours are annually spent by the SCO on monitoring submissions and collecting forfeitures. The number of delinquent reports has grown steadily over the past ten years and the SCO has identified at least 3,100 entities that are required to but are not actually reporting annual financial data to the SCO. This item seeks to provide the SCO with the resources to alleviate these issues. The SCO believes the growth in delinquent reports is primarily due to the lack of outreach and training by the SCO to local governments.

LAO Comment. Given the state's fiscal condition, we recommend denying the request at this time.

Staff Comments. Staff notes that current statute provides for a "hammer" in that reporters are subject to specific forfeiture provisions that require payments to the State for failure to file financial reports with the SCO. It is not clear how resources directed to outreach and training by the SCO to local governments will address the delinquent reporter issue.

Staff Recommendation: DENY.

C. Actuarial Advisory Support.

Background. Chapter 371, Statutes of 2008 (SB 1123) established an eight-member California Actuarial Advisory Panel (CAAP) to provide impartial and independent information on pensions, Other Post Employment benefits, and best practices for actuarial methodologies and assumptions. CAAP is required to meet quarterly and report to the Legislature annually, on or before February 1. SB 1123 mandated that CAAP be located at the SCO and that the SCO provide staff support to CAAP. At this date, CAAP has not met and therefore no report was submitted to the Legislature in either 2009 or 2010. The SCO sent a letter in April 2009 urging the appointing agencies to make their appointments; to date, five of the eight entities have named their appointments. The SCO indicates that it is not feasible to expect CAAP members to provide their own administrative support and it is also not feasible for the SCO to provide support from within existing resources. Therefore, absent approval of this item, which provides resources to the SCO, the SCO indicated that the resulting inaction or delay of action of the appointing agencies and CAAP members will impair CAAP's ability to fulfill its statutory responsibilities.

LAO Comment. Given the state's fiscal condition, we recommend that the Legislature direct SCO to find the minimum resources necessary within its existing budgetary authority to support this panel. In the future, when state finances improve, the Legislature may wish to consider providing additional resources for this function.

Staff Comments. Staff notes that SB 1123 specifically states that the "*CAAP shall be located in the Controller's Office, which shall provide support staff to the panel*." In passing this bill, the Legislature made clear its intent that no resources were to be provided but rather the SCO would absorb the panel's support costs within existing resources. This decision was made in full light of the fact that the SCO reported implementation costs to the Appropriations Committees in both houses consistent with this request.

Staff Recommendation: DENY and direct SCO to find the resources necessary within its existing budgetary authority to support CAAP.

VOTE: Denied on a 2-0 vote. Harman absent.

3. BCP-9: Local Government e-Claim System (LGeC). The Governor requests $444,000 GF for 2010-11 and ongoing for the maintenance and operations support of the Local Government e-Claims (LGeC) system. This request would make permanent 4.5 two-year limited-term positions the SCO first received in 2007-08.

Background. The SCO is required by statute to process, review, and pay mandated cost claims received from school districts, local agencies, and community colleges. The SCO receives an average of 35,000 claims annually from local governments. The LGeC system allows local government claimants and their consultants to submit their mandated cost claims electronically as an alternative to the current paper-submittal process. As of November 30, 2008, the LGeC system contained sixty (60) on-line programs out of a total of 110. The number of programs fluctuates annually due to the ongoing addition or amendment of programs by the Commission on State Mandates and suspension of mandates by the Legislature. Each year, approximately 15-20 programs are added or modified.

In 2008-09, the LGeC system first began receiving claims from local governments. 54 claims were received totaling more than $10 million which was significantly lower than the amount targeted. The SCO indicates the primary reason for low participation is that not enough claim programs have been included in the system for claimants to begin using it. The number of on-line programs is low because programming resources were redirected to allow submission of supporting documents so that entire claims could be submitted and tracked through the system. By implementing this "attachment feature," claimants can now file claims and supporting documentation electronically making the LGeC system totally paperless. The SCO indicates that, when fully functional, the LGeC system will annually process up to 40,000 claims for $600 million.

2009-10 Budget. Scored $11.8 million GF in cost savings attributable to the LGeC system.

Staff Comments. Staff agrees generally that as envisioned, the LGeC system will cut state costs by reducing the risk of accepting ineligible, unreasonable, and fraudulent claims caught through vetting features built into the system. Further, automating the process will allow more time for desk audits and thorough analysis of claims. However, the LGeC system has performance issues. It will not achieve the cost savings estimate in the current year. The SCO staff indicates this is due to several factors, including staff redirections from desk audits to information technology tasks related to the LGeC system, limited programs available for claims because staff was redirected from that task to instead implement the “attachment feature” allowing claims and supporting documentation to be submitted electronically, the system not permitting multi-year filings (which is the typical first time claim) and lack of outreach to claimants about use of the system. The SCO indicates that the information technology staffing resources in this item will be used to overcome these obstacles with the system. The SCO estimates savings of $11.8 million GF in 2010-11 from decreased manual filings, assuming three redirected staff are returned to desk audits.

Committee Questions. Based on the above comments, the Committee may wish the SCO to provide greater clarification as to:

- How will the additional resources address the identified problems with the LGeC system, including why claimants are not using the system?
- If lack of use is at the core, what steps is the SCO taking to make the LGeC system more user friendly?

Staff Recommendation: Given the “below-expectations” performance levels to date, staff recommends the committee APPROVE the item but continue the resources and 4.5 positions for another two-year limited-term to allow the Legislature to revisit this issue and determine if the resources are having the intended impact and the estimated cost savings from the LGeC system are being achieved.

VOTE: Approved on a 2-0 vote. Positions designated as two-year limited term. Harman 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's Budget proposes expenditures of $1.1 billion ($348 million GF) and 4,082.3 authorized positions – a decrease of $200 million and 21 positions.

Pursuant to Chapter 20, Statutes of 2009 (ABx4 22) the Governor's Budget estimates one-time revenue of $289 million for the sale of state-owned buildings. The state will retain space in these properties by entering into long-term lease agreements. Additionally, through Control Section 4.65, the Governor's Budget includes the authority to increase expenditures in the event the cost of leasing is greater than anticipated (see item No. 4 below).

DISCUSSION ITEMS:

1. BCPs-1 & 2: Green Building Standards Commission Workload Augmentation and Green Building Education. The Governor requests support of three redirected positions from the Division of the State Architect and increased expenditure authority of $350,000 (Building Standards Administration Service Revolving Fund - BSASRF) to be offset by a reduction to two DGS funds effective July 1, 2010 and ongoing increased expenditure authority of $36,000 (BSASRF) to meet regulatory workload mandates including new and increasing CALGreen building workload, new CALGreen education and outreach effort, and the management of fee revenue.

Background. The California Building Standards Commission (BSC) is responsible for administering California's building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years (during its triennial cycle), the BSC reviews the newest model building codes published by various independent code-developing bodies. When published, these model codes are sent to the BSC and to various state agencies that propose or adopt building standards, including the Office of the State Fire Marshall, the Division of the State Architect (within DGS), and the Department of Housing and Community Development. These agencies, and the public, draft proposed changes to the model codes and, through a deliberative process, the BSC eventually approves changes to the California Code of Regulations (CCR), Title 24, also known as the California Building Standards Code. On January 12, 2010, the BSC adopted the new California Green Building Standards Code (Part 11 of Title 24).

Chapter 719, Statutes of 2008 (SB 1473), created the BSASRF for expenditures related to carrying out building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards. The BSASRF is supported by fees collected from any applicant for a building permit, assessed at the rate of $4 per $100,000 in valuation. These fees are anticipated to generate approximately $1.2 million in revenues to the BSASRF in FY 2010-2011.

2009-10 Budget. Approved Governor's request for $278,000 (BSASRF) and three positions to address increased green building standards workload stemming from the enactment of Chapter 719, Statutes of 2008 (SB 1473).

Staff Comments. Both DGS and the Department of Housing and Community Development received staffing increases in 2009-10 to respond to workload increases associated with green building standards that were adopted in January 2010. None of these increases in the current year, however, addressed the workload associated with the need for outreach and education to California's building industry about the new and efficient green building standards which was a component of SB 1473.

In addition to these budget items, in 2010-11 the Governor is also requesting: (1) For the Office of the State Fire Marshall, one position and $169,000 (BSASRF) to develop building standards, with emphasis on development, adoption, publication, updating, and educational efforts associated with green building standards and efforts to reduce home loss due to wildland fires; and (2) For the Department of Housing and Community Development, one position and $108,000 (BSASRF) state operations to provide educational and outreach programs for the implementation of the first California Green Building Code.

It is not clear to staff that this tri-Department effort to undertake education and outreach related to Green Building Standards is comprehensive or coordinated in its approach. Additionally, staff notes that roughly half of this item is based primarily on workload associated with green building standards that were just adopted in January 2010. Thus, substantial work on the next triennial adoption will not ramp up again for at least another year to two years. This subcommittee will consider the Department of Housing and Community Development budget item later in this agenda. Budget Subcommittee No. 2 on Resources held open the Office of the State Fire Marshall budget item at its March 4 hearing. Consistent with that action, staff recommends this item be held open for the time being to allow the Administration to provide a comprehensive expenditure and work plan for the state entities receiving BSASRF monies.

Staff Recommendation: HOLD OPEN pending receipt of the requested information from the Administration and further discussions of related expenditures in the Department of Housing and Community Development budget in this subcommittee and Office of State Fire Marshall budget in Senate Budget Subcommittee No. 2.

2. Division of State Architect Provisional Language. The Governor requests provisional language in the 2010-11 budget act to provide the Director of DGS with the authority to make changes to the Division of the State Architect's (DSA) budget to address workload issues.

Background. The Division of the State Architect provides design and construction oversight for K–12 schools and community colleges, and develops and maintains accessibility standards and codes utilized in public and private buildings throughout the State of California. Heretofore, the DSA has been "off budget" and continuously appropriated from fee revenues collected from DSA customers. The Governor's budget proposes total funding for the DSA in 2010-11 of $60.5 million (Disability Access Account - $7 million; Public School Planning, Design, and Construction Review Revolving Fund - $53.3 million; and, Certified Access Specialist Fund - $270,000) and adds the provisional language, effectively putting DSA "on budget." The provisional language is comprised of five sections:

> **Section 1.** Permits the DGS Director to augment DSA's budget by up to ten percent when existing resources are insufficient for DSA to provide statutorily required services to customers and DSA has identified sufficient revenue. Requires any permanent augmentation be submitted for review as part of the normal budget development process. If this authority is exercised, requires the DGS Director to notify the Department of Finance (DOF) within 30 days of the amount augmented and provide a justification.
>
> **Section 2.** If the ten percent augmentation permitted in Section 1 is exhausted and resources are insufficient and DSA has identified sufficient revenue, authorizes the DGS Director to further augment DSA's budget. This Section does not contain a cap, but similar to Section 1, requires DSA to submit any permanent augmentation as part of the normal budget process.
>
> **Section 3.** States that, in the absence of a budget, DSA has access to the fee revenue and can continue to operate.
>
> **Section 4.** Authorizes the DGS Director to administratively establish positions on the basis of work and programs needs of DSA. Requires any permanent positions be submitted for review as part of the normal budget process.
>
> **Section 5.** Declares that DSA positions shall be considered hard-to-fill and are therefore exempt from existing statute that requires the State Controller to abolish any position that has been vacant for six months. For any positions that have been previously designated as vacant and abolished by the Controller, authorizes the DGS Director to reestablish those positions.

Staff Comments. From the standpoint of "truth-in-budgeting," the proposed provisional language is a positive development as it brings "on budget" a program that was heretofore "off budget." Additionally, staff notes that there have been complaints from the field, particularly from K-12 schools, about delays in project review by the DSA. Therefore, adopting the provisional language permits the Legislature greater ability to oversee and monitor an important program that serves clients across the state and ensures construction integrity. However, staff also notes that while the provisional language is intended to address DSA workload demands, the language effectively only permits "peaks" to be addressed. It is also difficult to determine if the proposed funding of $60.5 million is an appropriate baseline. Further, staff notes that the language does not require notification to the Joint Legislative Budget Committee if DSA's budget is augmented. As such, it is appropriate for the subcommittee to weigh whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring.

Committee Questions. Based on the above comments, the Committee may wish the Administration to provide responses to the following questions:

1. Why is the provisional language constructed to only address "peaks" in DSA workload? Is $60.5 million in baseline funding appropriate? What level of funding did DSA receive in the current year?

2. Does the language strike the right balance between providing budget flexibility and providing strong legislative oversight and monitoring?
3. Can the Administration demonstrate that DSA has difficulty filling vacant engineer and architect positions, especially given the high rate of unemployment in the State of California?

Staff Recommendation: HOLD OPEN pending receipt of additional information from the Administration in response to the comments and questions above.

3. State Capitol Repairs. The Governor requests a reduction of $5.4 million in DGS's budget to reflect that DGS would no longer fund the cost of Capitol repairs and maintenance. Rather, DGS would still coordinate these activities but the cost of Capitol repairs and maintenance would be funded by the Legislature's budget.

2009-10 Budget. Approved May Revise request to suspend $6.6 million GF for Capitol repair projects for one year (until 2010-11).

Background. In 2006, a comprehensive assessment was undertaken to determine the infrastructure needs of the State Capitol Building. At the conclusion of that assessment, the Capitol Infrastructure Report (Report) was published detailing a list of needed repairs to the building including fire/life/safety and other critical repair and maintenance. The Report was based on a preliminary review of the building systems. Approximately $1.6 million has been spent to date. The remaining balance of appropriated funds, scheduled to be spent in 2010-11, totals $6.2 million and will be spent on critical maintenance/fire/life/safety projects. Consultants have been engaged to complete a more detailed assessment of current conditions and are now forming new cost estimates and recommendations on how to phase the remaining work. A very rough estimate of outstanding needed repairs is $100 million, which is based on DGS staff knowledge of past projects in 50-year old buildings and preliminary information from the consultants. Further, DGS staff indicated that a challenge going forward is undertaking the remaining repairs in what is a fully occupied building. The majority of the projects completed to date, and those scheduled for completion in 2010-11, were/will be completed with little disruption to day-to-day building operations. This will be less so the case going forward, as the larger projects that remain likely require temporary relocation of offices.

Staff Comments. This request involves the DGS budget and that of the Legislature, both of which are under the jurisdiction of this subcommittee. The Administration proposes this transfer of responsibility to capture General Fund savings; i.e., the Governor's budget does not propose an augmentation to the Legislature's budget to cover these costs. The transfer of responsibility to the Legislature's budget is also proposed on a permanent basis. Staff notes that it is difficult for the Joint Rules Committee to determine at this juncture what the appropriate course of action on this item is as there are many unknowns with the costs associated in this item. DGS staff acknowledges this and has communicated to staff that in the next couple of months they will be meeting with the Joint Rules Committee to discuss the possible phasing and associated costs of the needed repairs. Staff notes that it is also reasonable to ask the Administration why the proposed cost of these repairs is not borne by all of the current tenants of the Capitol building; this item would shift the costs completely to the Legislature's budget.

Staff Recommendation: HOLD OPEN pending discussions between DGS, the Administration, and the Joint Rules Committee and the receipt of additional information by this subcommittee from the Administration and the Joint Rules Committee.

4. Oversight: State Property: Sale and Lease Back. The Governor's Budget estimates one-time revenue of $289 million for the sale of state-owned buildings. The state will retain space in these properties by entering into long-term lease agreements. Additionally, through Control Section 4.65, the Governor's budget includes the authority to increase expenditures in the event the cost to the state of leasing these buildings after their sale is greater than anticipated.

8th Extraordinary Session Budget Action. Similar to most revenue assumptions, the Legislature accepted the Governor's $289 million revenue assumption for the sale of state-owned buildings in 2010-11 without formal action.

Background. Chapter 20, Statutes of 2009 (ABx4 22) authorizes the Administration to sell and lease back 11 properties, totaling more than seven million square feet of office space. In addition, ABx4 22 authorizes the Administration to sell the 32nd Agricultural District/Orange County Fairgrounds in Costa Mesa as well as enter into long-term leases on state property.

Property	**Address**
Attorney General Building	1300 I Street, Sacramento
California Emergency Management Agency Building	3650 Schreiver Avenue, Rancho Cordova
Capitol Area East End Complex	Sacramento
Elihu M. Harris Building	1515 Clay Street, Oakland
Franchise Tax Board Complex	9645 Butterfield Way, Sacramento
San Francisco Civic Center	350 McAllister Street and 455 Golden Gate Boulevard, San Francisco
New Junipero Serra State Building	320 West 4th Street, Los Angeles
Department of Justice Building	4949 Broadway, Sacramento
Public Utilities Commission Building	505 Van Ness Avenue, San Francisco
Judge Joseph A. Ratigan Building	50 D Street, Santa Rosa
Ronald Reagan State Building	300 South Spring Street, Los Angeles

The Administration secured the services of CB Richard Ellis to market the above properties. On Friday, February 27, CB Richard Ellis released the marketing materials and by close of business had received sixty registrations (which is a required precursor to submitting a bid). Bids are required by April 14, 2010.

The sale of the Orange County Fairgrounds is proceeding. The top bid submitted was $56.6 million which was lower than the original estimate ($96-108 million). DGS is continuing its due diligence related to the sale of the property. The sale of this property is not included in the Governor's 2010-11 revenue assumption.

With regard to long-term leases, DGS indicates the first pilot site has been identified at the California Institute for Men Chino. It is a proposed ground lease for 150 acres and a Request for Proposal has been released, due back by the end of April 2010. The state owned property in question abuts the Chino Airport and would likely have an industrial use. At present, the Administration indicates no other property is being considered under the long-term lease authority.

Staff Comments. As noted above, the Governor's 2010-11 Budget estimates one-time revenue of $289 million for the sale of state-owned buildings. This estimate does not include any revenue from the sale of the Orange County Fairgrounds or any long-term lease on state property.

LAO Comment. As part of its 2010-11 Fiscal Estimate, the LAO scored $200 million in revenue from the sale-lease back of state buildings in 2010-11. In 2011-12, the LAO revenue estimate drops to $170 million due to new lease payments the state would be making on state buildings after they have been sold and leased back.

The LAO also notes that the authorizing legislation requires the Administration to provide the financial terms of the sale-lease back 30 days prior to completing the transaction. The LAO recommends that the Legislature take advantage of this opportunity to evaluate whether the transaction is in the state's best interests. This evaluation would involve weighing the benefits of the one-time revenue from the sale against the obligation of paying ongoing lease costs to the new owners.

Committee Questions. Based on the above information, the Committee may wish the Administration to provide the following:

1. An update on the current status of sale-lease back, sale, and long-term lease authorities provided in ABx4 22 (2009).
2. Further explanation regarding the authority in Control Section 4.65 which would increase expenditures in the event the cost of leasing back a sold state building is greater than anticipated.

Staff Recommendation: NO ACTION.

5. Oversight: Motor Vehicle Fleet Management.

Background. A total of 124 state departments own vehicles; eight of those departments represent 80 percent of the state fleet:

Big 8 Agencies Total Vehicles in Fleet
(through December 31, 2007)

Agency	Fleet Total	Percentage
Transportation	10,319	27%
General Services	7,298	19%
Highway Patrol	4,206	11%
Corrections & Rehabilitation	2,952	8%
California State University	1,862	5%
Parks & Recreation	1,829	5%
Fish & Game	1,416	4%
Forestry & Fire Protection	1,125	3%
All other Agencies	7,319	19%
Total	**38,326**	

The Office of Fleet & Asset Management (OFAM) within DGS provides transportation and commute-related services statewide. Transportation-related services provided include among others, vehicle pools, repair facilities, vehicle inspection, vehicle acquisition and disposition, and consultation regarding automotive management problems. OFAM leases a fleet of 6,700 vehicles to state agencies to meet their transportation needs. Agencies leasing vehicles pay rates that cover vehicle operations and maintenance and recover the purchase price of the vehicle plus the cost of liability insurance over several years. OFAM also provides a fleet of 588 daily rental vehicles to meet the travel needs of State employees. DGS charges a daily fee plus a mileage rate for each mile driven. The majority of these fleet activities flow through the DGS' Service Revolving Fund and is recovered via the various rates charged to State agencies depending on their usage.

When purchasing vehicles, the DGS' policy is to only purchase those vehicles needed to serve its customers. Additionally, DGS has in recent years increased the purchase of hybrid vehicles. This is a result of a number of State and federal policies requiring DGS to "green" its fleet.

On July 17, 2009, the Governor issued Executive Order S-14-09 (EO) directing State agency and Cabinet level departments to reduce the fiscal and environmental costs of operating the state's motor vehicle fleet. The EO requires a reduction of the overall size of the fleet by at least 15 percent and a reduction of home vehicle storage permits by at least 20 percent. The EO further prohibits leasing or purchasing any new vehicles for non-emergency use; DGS is authorized to approve exemptions to this prohibition only when the purchase is necessary for fire/life/safety, funded with federal dollars, or will result in significant savings.

The EO also requires DGS to take steps to transfer vehicles between agencies and departments to ensure the newest, most fuel efficient vehicles are used and to eliminate the oldest and least fuel efficient vehicles from the State's fleet. Finally, under the EO and by July 1, 2010, DGS is required to post to its website progress of meeting the fifteen percent fleet reduction goal, including specific data by department.

Staff Comments. DGS staff indicate that the only exceptions to the EO that have been granted were the purchase of seven fire engines by the California Emergency Management Agency and three vehicles by the Mental Health Department for food transport.

Committee Questions. Based on the above information, the Committee may wish the Administration to provide responses to the following questions:

1. For the fleet managed by DGS, how are the savings from the 15 percent vehicle reduction plan (required to be implemented by April 1, 2010) reflected in the department's 2010-11 budget?
2. How has DGS implemented the requirement in the EO to transfer vehicles between agencies and departments to ensure the newest, most fuel efficient vehicles are used and to eliminate the oldest and least fuel efficient vehicles from the State's motor vehicle fleet?
3. Given the restrictions on vehicle purchase, what other methods is DGS utilizing to "green" its vehicle fleet?
4. What is DGS' vehicle retirement policy?

Staff Recommendation: NO ACTION.

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 $386.1 million ($9.5 million GF) and 623.1 authorized positions for the department – a decrease of $417.2 million and an increase of 27.8 positions.

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $131 million (excluding administrative costs) in funding from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C) – a decrease of approximately $409 million from 2009-10 due to the pending exhaustion of the bond funds.

DISCUSSION ITEMS:

1. BCP-2: Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities to Implement AB 32. The Governor requests $54,000 in 2010-11 and $103,000 ongoing (Air Pollution Control Fund) and one permanent position effective January 1, 2011, to address workload in the Division of Housing Policy Development associated with the implementation of Chapter 488; Statues of 2006 (AB 32).

Background. AB 32 enacted criteria for reducing climate change and green house gas emissions as follows: 30 percent reduction by 2020 (to 1990 levels), additional reductions by 2035 and an 80 percent reduction below 1990 levels by 2050. The main strategies for making these reductions are outlined in the AB 32 Scoping Plan, as adopted by the California Air Resources Board (ARB). AB 32 implementation strategies are dependent on new and expanded activities of HCD's mandated administrative responsibilities pursuant to State Housing Element law (including Regional Housing Needs Allocation and housing elements); updating of state building codes; administration of local assistance grants and loans for housing development; and provision of technical assistance and regulatory barrier relief.

The fund source for this position is the Air Pollution Control Fund. AB 32 authorized ARB to adopt, by regulation, a schedule of fees to be paid by sources of green house gas emissions to support the administrative costs of implementing AB 32.

Staff Comments. Staff notes no concerns with this request itself, as there is increased workload for HCD related to the implementation of AB 32. However, staff understands that the AB 32 fees, which will be deposited into the Air Pollution Control Fund and are the fund source for this item, will not begin generating revenue until fall 2010. In addition, much larger state operations cost issues relative to the implementation of AB 32 are currently pending before Subcommittee No. 2 on Resources. To allow time for that Subcommittee to consider those larger issues, it would be appropriate for this subcommittee to postpone action on this budget item.

Staff Recommendation: HOLD OPEN pending Subcommittee No. 2's work related to the implementation of AB 32.

2. BCP-3: Green Building Standards Education & Outreach. The Governor requests one position and $108,000 (Building Standards Administration Special Revolving Fund - BSASRF) state operations to provide educational and outreach programs for the implementation of the first California Green Building Code.

Background. The California Building Standards Commission (BSC) is responsible for administering California's building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years (during its triennial cycle), the BSC reviews the newest model building codes published by various independent code-developing bodies. When published, these model codes are sent to the BSC and to various state agencies that propose or adopt building standards, including the Office of the State Fire Marshall and the Division of the State Architect and Building Standards Commission, both within the Department of General Services. These agencies and the public draft proposed changes to the model codes and, through a deliberative process, the BSC eventually approves changes to the California Code of Regulations (CCR), Title 24, also known as the California Building Standards Code. On January 12, 2010, the BSC adopted the new California Green Building Standards Code (Part 11 of Title 24).

Chapter 719, Statutes of 2008 (SB 1473), created the BSASRF for expenditures related to carrying out building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards. The BSASRF is supported by fees collected from any applicant for a building permit, assessed at the rate of $4 per $100,000 in valuation. These fees are anticipated to generate approximately $1.2 million in revenues to the BSASRF in FY 2010-2011.

2009-10 Budget. Approved Governor's request for $222,000 BSASRF and two positions to develop and enhance the California Green Building Standards Code.

Staff Comments. Both HCD and the Department of General Services received staffing increases in 2009-10 to respond to workload increases associated with green building standards that were adopted in January 2010. None of these increases in the current year, however, addressed the workload associated with the need for outreach and education to California's building industry about the new and efficient green building standards.

In addition to this budget item, in 2010-11 the Governor is also requesting: (1) For the Office of the State Fire Marshall, one position and $169,000 special fund to develop building standards, with emphasis on development, adoption, publication, updating, and educational efforts associated with green building standards and efforts to reduce home loss due to wildland fires; and (2) For the Department of General Services, support of three redirected positions from the Division of the State Architect and increased expenditure authority of $350,000 BSASRF to be offset by a reduction to two DGS funds effective July 1, 2010 and ongoing increased expenditure authority of $36,000 BSASRF to meet regulatory workload mandates including new and increasing CALGreen building workload, new CALGreen education and outreach effort and the management of fee revenue.

It is not clear to staff that this tri-Department effort to undertake education and outreach related to Green Building Standards is comprehensive or coordinated in its approach. This subcommittee considered the Department of General Services budget item earlier in this agenda. Budget Subcommittee No. 2 held open the Office of the State Fire Marshall budget item at its March 4 hearing. Consistent with that action, staff recommends this item be held open for the time being to allow the Administration to provide a comprehensive expenditure and work plan for the state entities receiving BSASRF monies.

Staff Recommendation: HOLD OPEN pending receipt of the requested information from the Administration and further discussions of related expenditures in the Department of General Services budget in this subcommittee and Office of State Fire Marshall budget in Senate Budget Subcommittee No. 2.

3. BCP-4: Prop 1C – Budget Act Appropriations Request. The Governor requests:

(1) $30 million (local assistance) funding authority for two programs established by the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C):
    (a) $5 million for Building Equity and Growth in Neighborhoods (BEGIN) and
    (b) $30 million for Housing-Related Parks Program (HRP);
(2) An extension of budget authority and liquidation period authorized in Chapter 652, Statutes of 2007 (SB 586) for the Affordable Housing Innovation (AHI) programs; and
(3) $1 million (Prop 1C funds) with statutory expenditure authority for continued monitoring of Prop 1C programs.

Background. In November 2006, California voters approved Proposition 1C, the $2.85 billion Housing and Emergency Shelter Trust Fund Act of 2006. Proposition 1C and subsequent implementing legislation provided funding for several programs, including for the HRP program, which grants park acquisition and improvement funds to cities and counties as a reward for the start of each unit of affordable housing within their jurisdictions, and the BEGIN program, which provides grants to local governments for the provision of down payment assistance loans to low or moderate income homebuyers who purchase a home in a new development that has received one or more local government development incentives.

Also included within Prop 1C is the $100 million AHI program fund for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing and are used to create pilot programs to demonstrate innovative, cost-saving approaches to building or preserving affordable housing. Prop 1C further provided that expenditure of these funds is subject to specific criteria establishing eligibility for and use of the funds to be approved by a 2/3rds vote of each house of the Legislature. In approving Chapter 652, Statutes of 2007 (SB 586) the Legislature programmed the $100 million for four distinct programs, as follows, as well as provided $35 million for the existing Local Housing Trust matching grant program: (1) $25 million to the Acquisition Financing Loan Fund to provide loans to purchase real property for the development or preservation of housing affordable to lower-income households; (2) $25 million to the Acquisition Financing Practitioner Fund to purchase real property for the development or preservation of housing affordable to low- and moderate-income households; (3) $5 million to the Construction Liability Insurance Reform Pilot Program to promote best practices for residential construction quality control as a means of reducing insurance rates for condominium developers; and, (4) $10 million to the Innovative Homeownership Program to increase or maintain affordable homeownership opportunities for Californians with lower incomes.

The Administration indicates that the encumbrance and liquidation period for AHI awards needs to be extended for two reasons: (1) In early 2008-09, with California's economy struggling at the start of the recession, HCD focused its resources on core/large housing programs, releasing large Notifications of Fund Availability into the economy to stimulate housing development activity; AHI awards were not included in this effort; and, (2) due to the December 18, 2008, freeze on bond funding awards were not issued for the AHI programs.

2009-10 Budget. The proposed current year Prop 1C expenditures total $540 million, including $40 million for the BEGIN program, $10 million for HRP, and $83 million for the AHI Fund.

Staff Comments. Staff notes no specific concerns with the BCP. However, the Legislature is currently considering SBx8 28 (Yee) in the Special Session which would redirect some allocations of AHI funds to other Prop 1C programs and accelerate the appropriation of the BEGIN and HRP allocations in this item. SBx8 28 is currently pending action on the Senate Floor. Further, due to the December 2008 bond freeze and the state's ongoing cashflow problems, the availability of bond proceeds has been tightly constrained statewide. HCD is not alone in experiencing challenges in this area. Staff also notes that the state's ability (or inability) to access bond markets has created uncertainty for bond-funded programs and their constituents. Further, the Legislature should give careful consideration as to whether, or how, the uncertainty of future bond sales affects decisions to appropriate or reappropriate bond funds. Therefore, consistent with the action taken by Budget Subcommittee No. 2 to hold open bond-funded resources/-related requests at its March 4 hearing, this subcommittee may wish to reserve judgment on this proposal until later in the spring when more information will be available on the state's fiscal and cashflow outlook.

Staff Recommendation: HOLD OPEN.

4. BCP-8: Adjustment Associated with OPR Elimination. The Governor requests $130,000 GF and one position for the analysis of legislation impacting local governments. This transfer is associated with the elimination of the Office of Planning and Research (OPR) which is a separate budget item that is scheduled for an April 22 hearing before this subcommittee.

Background. The Governor's proposal contains no background information or documentation in support of this position transfer from OPR to HCD. HCD staff has indicated separately that the position would analyze how proposed bills impact local government. This analysis is not currently undertaken by HCD but would complement with work HCD already does to analyze how proposed bills impact redevelopment agencies, including their reporting requirements.

LAO Comment. The Governor's proposal to eliminate the OPR would result in approximately $700,000 GF savings. Much of OPR's budget and many of its positions, however, would be transferred to other entities in state government, including the transfer of this position to HCD. The LAO notes that it has long recommended eliminating OPR. However, it recommends the Legislature review in detail proposals for where some OPR functions, particularly the California Environmental Quality Act Clearinghouse and California Volunteers, will be placed following the office's elimination. The LAO believes some additional GF savings may be possible and expects to provide more detailed recommendations in this regard in the future.

Staff Comments. It is difficult for this subcommittee to consider this item in isolation, as it is part of a larger proposal to eliminate OPR. Further complicating matters is that the Administration has yet to provide background information or documentation in support of this position transfer from OPR to HCD. Lastly, it is worth noting that last year the Joint Budget Conference Committee voted to eliminate seven agencies and the OPR. This position was not preserved as part of that conference package.

Staff Recommendation: HOLD OPEN pending receipt of the requested information from the Administration and further discussions in this subcommittee of the Governor's proposal to eliminate OPR.

5. Enterprise Zone Tax Credit Voucher Application Fee.

Background. California currently has 42 Enterprise Zones (EZ) as authorized by the state legislature. The EZ program targets economically distressed areas throughout California, providing special incentives designed to encourage business investment and promote the creation of new jobs. Each Enterprise Zone is administered by its local jurisdiction working with local agencies and business groups to promote economic growth through business attraction, expansion, and retention. HCD coordinates the program statewide. Enterprise Zone companies are eligible for tax credits and benefits including $37,440 or more in state tax credits over a five-year period for each qualified employee hired.

The Governor's budget proposes to fund HCD's administration of the Enterprise Zone (EZ) Program with $610,000 (fee revenues) and $510,000 (GF). HCD state operations costs related to the EZ program include tax credit voucher application review and awards, monitoring, adoption of regulations, and data collection/reporting. To partially fund the state's costs for administering the program, statute authorizes HCD to charge a $10 per hiring tax credit voucher application fee. Should the EZ program takein fee revenues above what is needed to administer the program, funds revert to the GF. This reversion occurred for the first time in 2008-09 when $721,000 in fee revenue was budgeted and $916,000 was received by the state.

Fee revenues to the EZ program ebb and flow throughout the fiscal year and are, in part, driven by the creation and/or reauthorization of new zones. In 2009-10, five enterprise zones were designated. In 2010-11, two enterprise zones will be newly designated. The amount of fee revenues collected is unknown at the beginning of each fiscal year making it difficult to budget the correct amount of required GF support. Additionally, because fee revenues vary by month, the current funding structure of fee revenues backfilled with GF resources is used to ensure that enough funding is available each month to support the program. However, this structure does not allow the program to build a balance from fee revenues in order to even out the program's funding over time. Without a balance on hand to support the months in which fee revenues are not enough to pay for administration of the program, the state must commit GF resources to the program each year.

LAO Comments. We think that fee revenues, and not the GF, should pay for the administrative costs of the Enterprise Zone program. Therefore we recommend (1) increasing fees to fully cover the program's administrative costs and (2) establishing a new fund to match revenues with the costs of the program's administration. More specifically, we recommend the Legislature enact legislation to: (1) Increase the hiring tax credit fee to a level that would fund the state's full cost of administering the program. Based on conservative estimates, the current fee would have to be raised by $4 to $6 per application. This would mean that taxpayers would pay $14 to $16 dollars for a tax credit worth up to $37,440; and (2) Establish a new fund into which fee revenues would be deposited. This will enable the department to carry a balance from month to month and even out expenditures. It also allows the state to accurately match the program's costs with fee revenues by monitoring the fund balance over time. This will give the Legislature the ability to adjust fees in future years in relation to costs.

Staff Comments. As noted above, HCD's receipt of fee revenues associated with EZ tax credit voucher applications ebb and flow throughout the year. However, in 2008-09 there were sufficient fee revenues generated to trigger a reversion to the GF. From a budget planning perspective this may not be the most fiscally sound approach and, given the state's fiscal crisis, it is a questionable use of scarce GF dollars. A better approach would be to adjust the GF appropriation on the front end to avoid a reversion on the back end. However, the flucuating nature of the receipt of fee revenue would have to accommodated in some manner to ensure HCD and its administration of the program is not disadvantaged.

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

1. What is the current year fee revenue received for EZ tax credit voucher applications?
2. Do current projections indicate a reversion will occur in 2010-11?

Staff Recommendation: NO ACTION recommended at this time; further review the LAO proposal and await the May Revise and receipt of additional information from the Administration on received EZ tax credit voucher application fee revenue in order to weigh what approach best fits program administration needs and state GF demands.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, March 18, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

<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.

California Prison Health Care Services (Receiver)

Background – History of the *Plata* Case, Current Plan, and Progress

Origination of the *Plata* Case and Consent Decree. In 2001, inmates filed a class action suit alleging that the California Department of Corrections (now the California Department of Corrections and Rehabilitation) was providing constitutionally inadequate medical care at all state prisons. The court has found that on average an inmate died needlessly every six to seven days due to inadequate medical treatment. The court cited the rapid growth of the prison system and a lack of organizational restructuring to accommodate this growth, as well as a lack of accountability, as principal drivers of the inadequate medical care provided.

In 2002, the state and plaintiffs entered into a consent decree which provided the federal court the power to enforce the agreement. The state was ordered to implement new policies and procedures on a staggered basis, with seven prisons required to complete implementation in 2003, and five additional prisons for each succeeding year until state-wide compliance was achieved. In 2004, court experts reported emerging patterns of inadequate compliance, including deficient physician quality. The state agreed to evaluate its physicians, provide additional training, undertake new measures regarding high-risk patients, develop proposals regarding physician and nursing classifications and supervision, and staff Quality Management Assistance Teams.

Establishment and Mission of the Federal Receiver. In 2005, the court found that the state continued to suffer from “entrenched paralysis and dysfunction” and issued its ruling that it would appoint a receiver to run the state’s prison medical care system. In its ruling the court cited major ongoing deficiencies including incompetent physicians and nurses, the poor quality of health care supervisors and management, a lack of meaningful peer review, inadequate intake screening and treatment, limited access to care, inadequate medical records systems, medical facilities in poor physical condition, interference by custodial staff, and failure to perform adequate investigations of medical staff.

In February 2006, the court appointed Robert Sillen as the receiver and outlined the duties of the Receiver, including providing day-to-day management of the prison medical care delivery system with the goal of “developing, implementing, and validating a new, sustainable system that provides constitutionally adequate medical care to all class members as soon as practicable.” In January 2008, the court appointed J. Clark Kelso as the new receiver.

Turnaround Plan of Action. The February 14, 2006 Order Appointing Receiver requires the Receiver to “develop a detailed Plan of Action designed to effectuate the restructuring and development of a constitutionally adequate medical health care delivery system.” The Receiver's "Turnaround Plan of Action" was submitted to the Court on June 6, 2008. On June 16, 2008, the Court approved the plan "as a reasonable and necessary strategy to address the constitutional deficiencies in California’s prison health care system", also finding "the plan’s six strategic goals to be necessary to bring California’s medical health care system up to constitutional standards." The objectives of the Turnaround Plan of Action are identified in the following table.

Receiver's Turnaround Plan of Action

Goal 1. Ensure Timely Access to Health Care Services	
Objective 1.1	Redesign and Standardize Screening and Assessment Processes at Reception/Receiving and Release
Objective 1.2	Establish Staffing and Processes for Ensuring Health Care Access at Each Institution
Objective 1.3	Establish Health Care Scheduling and Patient-Inmate Tracking System
Objective 1.4	Establish A Standardized Utilization Management System
Goal 2. Establish Medical Program Addressing the Full Continuum of Health Care Services	
Objective 2.1	Redesign and Standardize Access and Medical Processes for Primary Care
Objective 2.2	Improve Chronic Care System to Support Proactive, Planned Care
Objective 2.3	Improve Emergency Response to Reduce Avoidable Morbidity and Mortality
Objective 2.4	Improve the Provision of Specialty Care and Hospitalization to Reduce Avoidable Morbidity and Mortality
Goal 3. Recruit, Train and Retain a Professional Quality Medical Care Workforce	
Objective 3.1	Recruit Physicians and Nurses to Fill Ninety Percent of Established Positions
Objective 3.2	Establish Clinical Leadership and Management Structure
Objective 3.3	Establish Professional Training Programs for Clinicians
Goal 4. Implement Quality Improvement Programs	
Objective 4.1	Establish Clinical Quality Measurement and Evaluation Program
Objective 4.2	Establish a Quality Improvement Program
Objective 4.3	Establish Medical Peer Review and Discipline Process to Ensure Quality of Care
Objective 4.4	Establish Medical Oversight Unit to Control and Monitor Medical Employee Investigations
Objective 4.5	Establish a Health Care Appeals Process, Correspondence Control and Habeas Corpus Petitions Initiative
Objective 4.6	Establish Out-of-State, Community Correctional Facilities and Re-entry Facility Oversight Program
Goal 5. Establish Medical Support Infrastructure	
Objective 5.1	Establish a Comprehensive, Safe and Efficient Pharmacy Program
Objective 5.2	Establish Standardized Health Records Practice
Objective 5.3	Establish Effective Radiology and Laboratory Services
Objective 5.4	Establish Clinical Information Systems
Objective 5.5	Expand and Improve Telemedicine Capabilities

Goal 6. Provide for Necessary Clinical, Administrative and Housing Facilities	
Objective 6.1	Upgrade administrative and clinical facilities at each of CDCR's 33 prison locations to provide patient-inmates with appropriate access to care
Objective 6.2	Expand administrative, clinical and housing facilities to serve up to 10,000 patient-inmates with medical and/or mental health needs
Objective 6.3	Complete Construction at San Quentin State Prison

Implementation Progress. The receiver is required to provide reports to the court three times annually regarding progress implementing the Turnaround Plan of Action. The most recent report was issued in January 2010 and is available on the California Prison Health Care Services (CPHCS) website. The report identifies the status of each objective at each state prison as well as provides a target completion date for the statewide completion of each objective.

In addition, the CPHCS has entered into an agreement with the Office of the Inspector General (OIG) to evaluate and monitor the progress of medical care delivery to inmates by establishing an objective, clinically appropriate, and metric-oriented medical program to annually inspect the delivery of medical care at each state prison. The first inspection report – for the California State Prison, Sacramento – was issued in November 2008. In total, 19 inspection reports have been completed through March 2010. The OIG reports that it intends to complete an inspection of each prison annually. The table below summarizes the compliance rate found for each category assessed during the first 19 inspections.

Summary of Office of Inspector General Medical Inspection Findings

Category	Average Score	Median Score
Chronic Care	62.7%	62.7%
Clinical Services	65.5%	65.9%
Health Screening	74.6%	74.3%
Specialty Services	60.2%	60.6%
Urgent Services	78.1%	80.2%
Emergency Services	77.2%	78.1%
Prenatal Care/Childbirth/ Post-Delivery	61.3%	61.3%
Diagnostic Services	69.6%	70.0%
Access to Healthcare Information	60.0%	58.8%

Outpatient Housing Unit	76.7%	75.4%
Internal Reviews	76.2%	70.4%
Inmate Transfers	87.9%	95.3%
Clinic Operations	90.7%	90.6%
Preventive Services	36.9%	32.1%
Pharmacy Services	85.1%	90.8%
Other Services	81.4%	85.0%
Inmate Hunger Strikes	43.4%	44.2%
Chemical Agent Contraindications	89.3%	94.1%
Staffing Levels and Training	93.9%	95.0%
Nursing Policy	72.6%	71.4%
Overall Score	**70.2%**	**71.3%**

Three-Judge Panel and Population Cap. In August 2009, a panel of three judges overseeing the *Plata* case as well as cases involving inmate mental health care and disability issues ordered the state to reduce overcrowding in the existing 33 state prisons. It made this order based on finding that overcrowding was a primary cause of unconstitutional care and that no other relief is capable of remedying deficiencies. The court ordered that overcrowding be reduced to 137.5 percent of "design capacity" within two years which would result in prison population reductions of approximately 40,000 inmates. The court reaffirmed its decision and ordered the implementation of the state's plan in a January 2010 order. The decision is currently being appealed.

Staff Comments on the History of the *Plata* Case, Current Plan, and Progress. The committee may wish to direct the following questions to the Receiver's Office.

- What does the Receiver view as the most important strides made to date towards implementing the objectives of the Turnaround Plan of Action? What does the Receiver view as the most critical next steps towards successful implementation?

- How will the Receiver and the court determine when it is appropriate to return control over the prison health care system to the state? To what extent will that decision be guided by the empirical findings of the OIG inspections versus other criteria?

- What is the projected timeframe for the successful end of the receivership?

- How is the Receiver's Office using the information provided by the OIG's medical inspections to improve the provision of inmate medical care on a day-to-day basis?

Fiscal Overview

Growth in Prison Health Care Costs. Prison health care costs have grown substantially since the beginning of the *Plata* case. The state spent about $800 million on inmate health care (including medical, mental, and dental health) in 2001, the year that the case was filed. The administration estimates that the state will spend $2.2 billion on inmate health care this year.

Interestingly, this nearly three-fold increase in expenditures occurred during a period in which the inmate population grew by less than five percent. Consequently, the average per inmate cost of inmate health care grew from about $4,900 in 2001-02 to about $13,500 in 2009-10.

According to a January 2009 report from CDCR, state expenditures for inmate health care have increased by $1.2 billion as a result of implementing the provisions of the three major class action suits in this area. The *Plata* case has resulted in increased costs of about $810 million, while the *Coleman* (mental health) and *Perez* (dental health) cases have resulted in an additional $423 million in costs annually. In the *Plata* case, the most significant budget increases have been associated with increased medical staffing levels, salary increases, pharmaceutical and medical supplies, and increased custody staff for medical guarding, access, and transportation.

Medical Staffing Levels. The Receiver's tri-annual reports to the federal court provides an update of staffing levels for medical positions in the department. The following table summarizes the staffing levels for specified positions as of November 2009.

Classification	Positions Authorized	Percent Filled
Physicians and surgeons	317.9	87%
Supervising Registered Nurse (II and III)	443.7	81%
Registered Nurse	1,718.1	89%
Licensed Vocational Nurse	1,135.5	86%
Psychiatric Technician	558.6	89%
Pharmacist (I and II)	138.7	75%
Pharmacist Tech	140.0	95%
Total, all positions	*4,651.0*	*87%*

Summary of Budget Proposals. The Governor's budget includes proposals resulting in a net *reduction* of $279 million in the prison health care budget in 2010-11 compared to the current year authorized spending level. This includes an increase of $532 million associated with various budget proposals and projects designed to implement the receiver's turnaround plan. Most of these increases are associated with (1) a request for $209 million to bring the budget for contracted and registry services up to the projected expenditure level, and (2) $235 million related to 19 different IT projects and management efforts designed to implement the turnaround plan.

In addition, the Department of Finance notified the Legislature in February that it will seek a Supplemental Appropriations Bill for $517.5 million in additional current-year funding authority for the CPHCS. About $515 million of that amount is associated with (1) contracted and registry services ($404 million), and (2) the 19 projects ($111 million). The remaining $2.6 million is associated with contracted medical costs associated with the August 2009 riot at the California Institution for Men.

The following table summarizes the annual costs associated with each of the budget proposals included in the Governor's budget.

Summary of Receiver Proposals
(In Millions)

Proposal	2009-10	2010-11	2011-12	2012-13	2013-14
Expenditures					
Medical services contracts	$404	$209	$209	$209	$209
Pharmaceuticals and med. supplies	$0	$46	$0	$0	$0
Nursing relief	$0	$24	$24	$24	$24
Medication management	$0	$10	$10	$10	$10
Health information management	$0	$8	$9	$9	$2
Section letter: position redirection	$0	$0	$0	$0	$0
PMO: 19 Projects	$111	$235	$210	$155	$109
Subtotals	*$515*	*$532*	*$462*	*$407*	*$354*
Savings					
Unallocated reduction	$0	-$811	-$811	-$811	-$811
Net Cost/Savings	**$515**	**-$279**	**-$349**	**-$404**	**-$457**

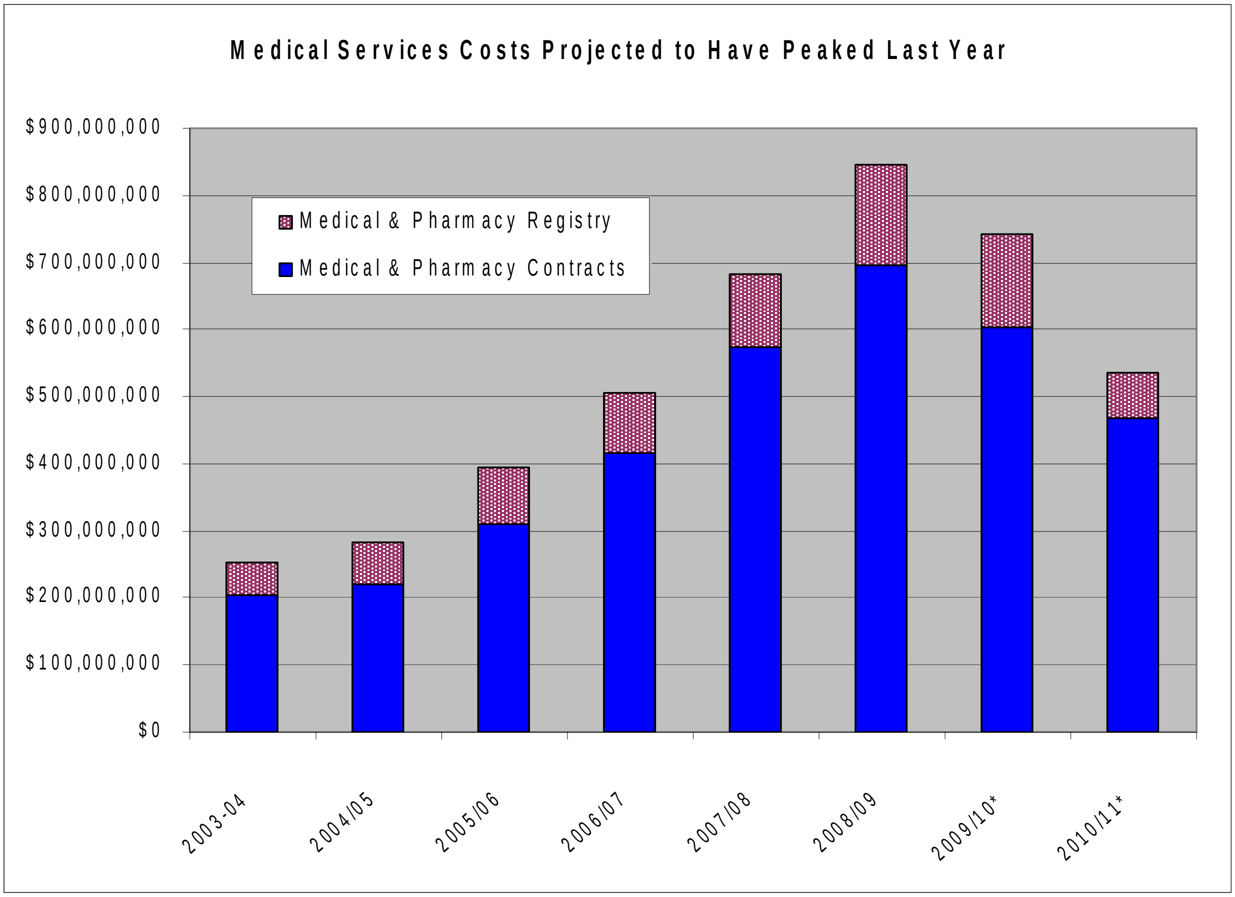
Staff Comments on Fiscal Overview. The committee may wish to consider the following questions.

- Is the Legislature confident that the requested resources are necessary to bring the prison health care system to a constitutional level of care?

- Is the request by the Receiver's Office for $517.5 million in additional current year authority – to be achieved through a supplemental appropriations bill – warranted? How much has the CPHCS spent to date for these purposes?

Issue 1 – Medical Services Contracts

Background. The prison health care system incurs significant contract-related costs. This includes costs for registry staff, especially for nurses, as well as other contract costs, particularly related to providing inmates with referrals to outside health care providers. The figure below shows that these costs have increased from about $252 million in 2003-04 to $845 million last year. The Receiver's Office projects these costs to decrease to $741 million this year and to $537 million in 2010-11 due to various efforts to curtail these costs. Some of these efforts are described in more detail below.



***** *Projected.*

The base budget for medical services contracts, including registry, totals about $308 million. Adding to that estimated salary savings from vacant prison health care positions, the Receiver's Office estimates a total shortfall of $403.6 million in the current year and $208.9 million in the budget year.

Governor's Budget Request. The Receiver's Office requests $208.9 million in the budget year and ongoing to address the base funding shortfall for medical services contracts. In addition, the Receiver's Office has submitted notification to the Legislature that it will seek $403.6 million in additional current year funds in a supplemental appropriations bill for the same purpose.

	2009-10	2010-11	2011-12
General Fund	$403,575,000	$208,892,000	$208,892,000
PY's	0.0	0.0	0.0

Staff Comments. As described above, the Receiver's Office estimates that it can reduce its medical contracts and registry costs by 12 percent in the current year (which it is on pace to do through the first six months of 2009-10) and an additional 28 percent in the budget year. The Receiver's proposals to increase the nursing relief factor and adding nursing staff for medication distribution (described in more detail in Issues 3 and 4 of this agenda) are among the factors the CPHCS cites for how it will achieve these spending reductions. Efforts to reduce these costs should be supported. However, it is notable that even with these projected reductions, spending in this area will exceed the expenditure levels of 2005-06 – the year the position of the Receiver was established – by $143 million.

The Receiver's budget request identifies increased access to care under the Receivership as the primary reason for increased costs in this area, particularly because better access to care has resulted in increased referrals to specialty services that otherwise would not have been provided. Typical contracted services include acute outpatient care at a hospital, including infirmary care and observation room services, acute inpatient care, emergency room care, and outpatient specialty care.

The CPHCS reports that it is implementing several cost containment measures in an attempt to reduce or stabilize cost in this area. These measures include implementation of utilization management, which is designed to utilize a criteria-based decision-making process to determine the most appropriate treatment, including whether referral to outpatient specialty services is warranted. Another cost containment effort noted by the Receiver's Office is utilization of a third party administrator to pay medical invoices and reduce errors and duplicative payments.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- How much of the historical increases in medical contracts and registry costs are attributable to specific factors, such as specific diagnoses, increased referrals, and increased costs per referral?

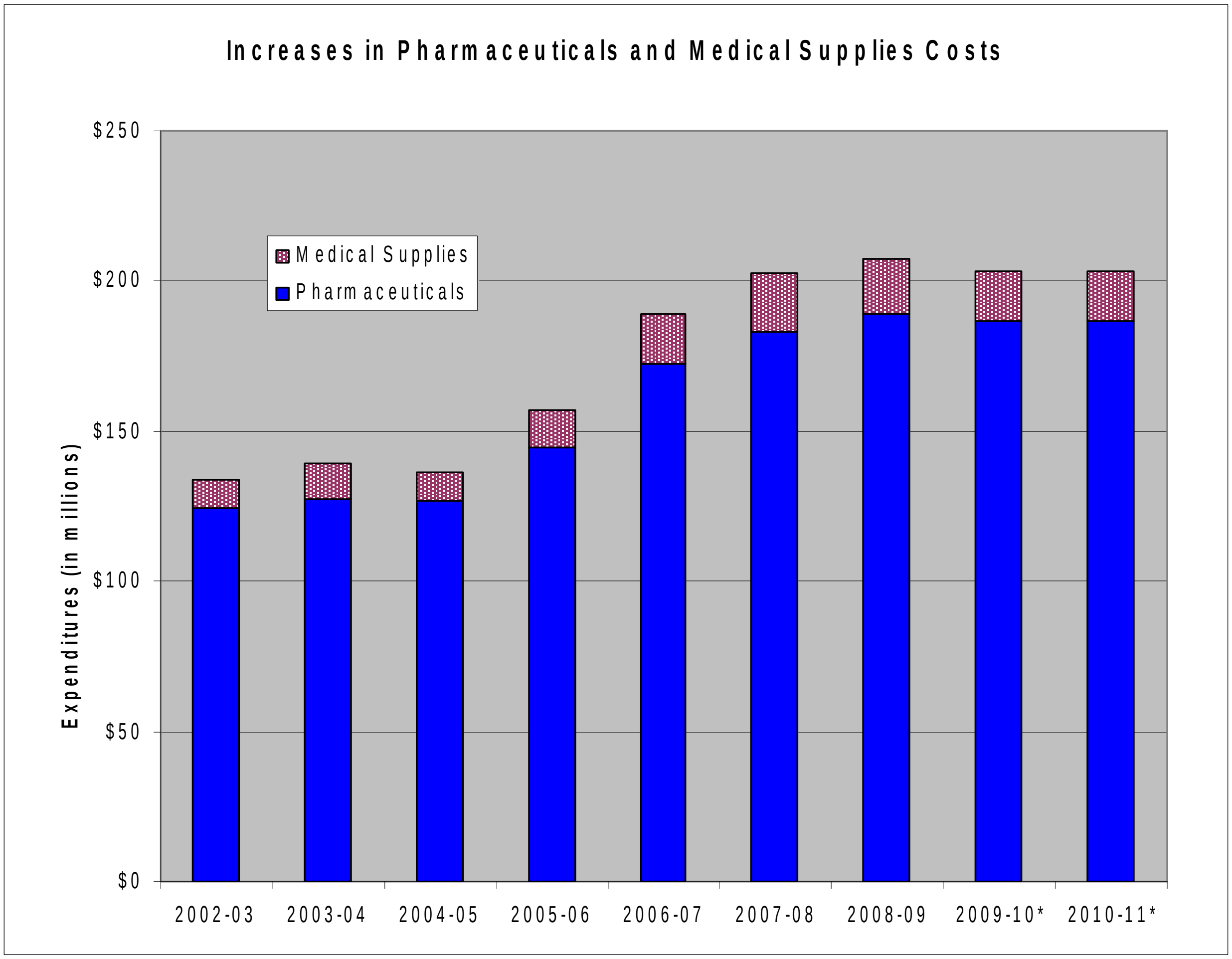
- What efforts is the Receiver's Office taking to reduce medical contract and registry costs?

- Is the Receiver's Office on track to meet its goal of reducing these costs from $845 million to $741 million this year? If so, to what would the Receiver attribute these reductions? If not, what has hampered his ability to make these reductions?

- In addition to overall expenditures in this area, what are the key performance outcomes the Receiver's Office is tracking to monitor progress in its efforts to manage these programs?

Issue 2 – Pharmaceuticals and Medical Supplies

Background. The CPHCS has a base budget for pharmaceuticals and medical supplies of $139.6 million in 2010-11. As the figure below illustrates, total expenditures in this area have increased in recent years before leveling off at about $200 million. Over 90 percent of these costs are for pharmaceuticals.



** Projected.*

From 2007-08 through 2008-09, the Legislature provided an additional $45.8 million to the Receiver's base budget to help cover the shortfall in these areas. This augmentation was provided on a limited-term basis, after which a new assessment of need would be conducted to determine the permanent funding amount necessary to cover these expenditures.

Governor's Budget Request. The CPHCS requests $45.8 million in 2010-11 (one-time) to augment its pharmaceuticals and medical supplies budget. The Receiver's Office cites a delay in the implementation of the Central Fill Pharmacy as the reason for the need to extend the limited-term funding for an additional year.

	2009-10	2010-11	2011-12
General Fund	$0	$45,800,000	$0
PY's	0.0	0.0	0.0

Staff Comments. The CPHCS cites three primary reasons for this augmentation. These factors are (1) poor health among the inmate population, particularly given the aging of the inmate population, (2) increased drug costs of more than 5 percent annually, and (3) a 14 percent increase in the number of prescriptions written between 2006 and 2009, primarily due to increased access to care under the *Coleman* and *Plata* cases.

The Receiver's Office notes several steps it has taken to manage costs in this area, including implementation of a formulary, implementation of a pharmacy software system, and development of plans to institute a centralized pharmacy facility for the consolidation and distribution of drugs. The CPHCS reports that these changes will allow for increased inventory control, more effective purchasing oversight, enhanced patient safety, and lower overall pharmacy operating costs. It further reports that the Central Fill Pharmacy is scheduled to open in the summer of 2010 and will result in savings of at least $5 million annually from pharmaceutical waste alone.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- Why have the efforts so far implemented, particularly the implementation of the formulary and use of generic drugs not resulted in any reduction in pharmacy costs? Can the CPHCS provide data on the extent to which the formulary and generic drugs are utilized?

- Does the Receiver believe that the efforts being undertaken can reduce pharmaceutical costs, or is it more likely that these efforts will simply slow the rate at which these costs grow in the future? In other words, how likely is it that this $45.8 million request will be an ongoing budgetary need?

- Has the Receiver's Office evaluated the rate at which inmates receive prescriptions in California prisons as compared to other prisons or jails? If so, what were the findings and implications? If not, would that be a worthy evaluation to conduct?

Issue 3 – Nursing Relief

Background. The department is currently authorized for 1,641 Registered Nurse (RN) and 1,117 Licensed Vocational Nurse (LVN) PY's. Because these positions typically need to be backfilled when vacant, the state budgets a relief factor for these positions. The relief factor is an estimate of the total PY's needed to fill a position including when it is vacant due to reasons such as vacation, illness, regular days off, and training. The current relief factor for RN's is 1.66 and for LVN's is 1.71.

This means, for example, that for each RN post that must be filled seven days per week, 1.66 PY's need to be authorized and funded to ensure that the post will be filled throughout the year. (It should be noted that a lower relief factor is used for positions that only need to be filled five days per week.)

By comparison, the relief factor for correctional officers is 1.76.

Governor's Budget Request. The Receiver's Office requests $23.5 million and 201.7 PYs ongoing to increase the relief factor for RN's to 1.77 and LVN's to 1.75.

	2009-10	2010-11	2011-12
General Fund	$0	$23,516,000	$23,516,000
PY's	0.0	201.7	201.7

The following tables compare the current relief factors for RN's and LVN's to what is being proposed by the Receiver's Office. An additional 13 days of relief are being requested for RN's, and 4.7 more days of relief are being requested for LVN's. Most of this change is attributable to additional training days for these positions, as well as the addition of a relief calculation for bereavement, military, and FMLA leaves. In addition, sick leave relief for RN's is proposed to be increased.

<u>Comparison of Current and Proposed Relief Factors for RN's and LVN's</u>

Registered Nurse

	Current		Proposed	
	Days	Relief Factor	Days	Relief Factor
Base position	219.5	1.00	206.5	1.00
Regular days off	104.0	0.47	104.0	0.51
Vacation	13.5	0.06	12.7	0.06
Holiday	14.0	0.06	14.0	0.07
Sick leave	9.0	0.04	12.0	0.06
Training	5.0	0.02	12.9	0.06
Bereavement	0.0	0.00	0.4	0.00
Military	0.0	0.00	0.1	0.00
FMLA	0.0	0.00	2.5	0.01
Totals	***365.0***	***1.66***	***365.0***	***1.77***

Licensed Vocational Nurse

	Current		Proposed	
	Days	**Relief Factor**	**Days**	**Relief Factor**
Base position	214.1	1.00	209.4	1.00
Regular days off	104.0	0.49	104.0	0.50
Vacation	15.9	0.07	13.5	0.06
Holiday	14.0	0.07	14.0	0.07
Sick leave	12.0	0.06	12.0	0.06
Training	5.0	0.02	10.9	0.05
Bereavement	0.0	0.00	0.4	0.00
Military	0.0	0.00	0.2	0.00
FMLA	0.0	0.00	0.7	0.00
Totals	***365.0***	***1.70***	***365.0***	***1.75***

Staff Comments. The Receiver's Office estimates that it spent about $27 million 2008-09 in registry and overtime costs related to backfilling unfunded relief. The Receiver's Office further notes that overtime and registry is significantly more expensive than hiring new employees. Specifically, the CPHCS provided estimates that show that over the course of a year, using overtime for an RN or LVN is about 14 to 15 percent more expensive than using a civil service employee, including the cost of benefits, and using registry is 22 percent more expensive for RN's and 47 percent more expensive for LVN's than using a civil service employee.

The Receiver estimates that this proposal will provide offsetting savings of $26 million in reduced overtime and registry usage. These cost reductions are reflected in the reduced spending estimates in the Medical Services Contracts item (Issue 1 of this agenda) discussed above. Based on the Receiver's estimates of offsetting cost reductions, the net savings associated with this proposal are about $2.4 million.

For purposes of comparison, it is worth noting that the 2004-05 budget included $99.5 million to increase the relief factor for correctional officers from 1.67 to 1.76. One of the principal justifications for this proposal was that it would reduce the department's reliance on overtime and temporary help. At the time, the department reported running deficiencies for those purposes of $79 million. Despite the Legislature's approval of the request, the department overspent its budget for custody positions by roughly $350 million in 2007-08. This suggests that, despite the logic, providing additional relief positions does not necessarily result in reductions in overtime or temporary help (including registry) usage. Instead, it suggests that usage and spending on overtime and temporary help is at least partly dependant on other factors which probably include workload and the willingness and ability of administrators to track and manage the usage of overtime and temporary help by employees.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- If overtime and registry are significantly more expensive than using relief staff, shouldn't this proposal result in greater net cost reductions than $2.4 million which is about 10 percent of the augmentation request?

- What will the Receiver's Office do to ensure that prison administrators effectively track and manage overtime and registry usage to actually reduce these costs going forward?

Issue 4 – Medication Management

Background. Inmates in prison receive prescribed medications in "pill calls" four times per day. The Receiver's Office estimates that it makes about 85,000 medication distributions each day during these pill calls. According to the budget request, the department current has 549 LVN's budgeted.

The Receiver's Office estimates that it has an insufficient number of LVN's positions to distribute the number of medications required. It bases this conclusion on time motion studies that show that an LVN can distribute approximately 30 medications per hour. In addition, the Receiver's Office estimates that it spends about $39 million annually on overtime and registry in order to complete medication distribution each day.

Governor's Budget Request. The CPHCS requests $10.1 million in 2010-11 ($9.9 million ongoing) and 145 LVN's to improve distribution of medications to inmate-patients.

	2009-10	2010-11	2011-12
General Fund	$0	$10,085,000	$9,926,509
PY's	0.0	145.0	145.0

Staff Comments. The Receiver's budget proposals assume that this request will effectively eliminate the use of overtime and registry for purposes of medication management. This $39 million reduction in costs is reflected in the Medical Services Contracts item (Issue 1 of this agenda) discussed above. Based on the Receiver's estimates of offsetting cost reductions, the net savings associated with this proposal are about $29 million annually.

The budget request is based on assumptions that there are two two-hour pill calls during each of second and third watch (shifts). However, the budget request does not detail what the LVN's will be doing during the other four hours of each watch.

Staff notes that while the budget request identifies 549 LVN positions available for medication management, the most recent tri-annual report identifies 1,135.5 authorized LVN positions in total. Presumably, the other positions have other treatment and medical care responsibilities within the institution.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- Do LVN's have other job requirements in prisons, or are they primarily responsible for medication distribution?

- The calculations for this request are based on an assumption that there are two two-hour pill calls per shift. What will the LVN's be doing the other four hours each shift?

Issue 5 – Health Information Management (HIM)

Background. A number of audits and reports have found major deficiencies with how CDCR has managed inmate health care records. Deficiencies include a lack of a uniform and standardized health information system, insufficient training of health records staff, inappropriate staffing, various filing methods used at different institutions, multiple health records sites at some prisons, duplication of forms, loose records not being filed, and incorrectly packaged health records. Most of these problems appear to stem from the reliance on a paper-based rather than a centralized electronic medical records system, as well as a lack of centralized oversight and management.

Governor's Budget Request. The Receiver's Office is requesting $8.5 million and 14.1 PY's in 2010-11 to implement its Health Information Management (HIM) program. Much of this amount is proposed as a three-year limited term request, while $1.7 million and 2.9 PY's would be ongoing.

	2009-10	2010-11	2011-12	2012-13	2013-14
General Fund	$0	$8,492,000	$9,910,000	$9,910,000	$1,700,000
PY's	0.0	14.1	14.1	14.1	2.9

The Receiver's HIM program has three components:

- ***Remediate and Support Paper Record Management.*** The Receiver proposes to create two teams utilizing a total of 14 contract staff that will spend three months in each prison to assist health care staff establish uniform processes and workflows for managing health records. This will be followed by a two month follow-up period where four limited term staff will be responsible for providing ongoing oversight and support to ensure that the implemented changes have been maintained. In total, this effort is expected to take three years to complete in all prisons.

- ***Integrate Electronic Record (e-Record) Components.*** The Receiver proposes to create two teams utilizing an additional eight contract staff to manage the implementation of various electronic medical records initiatives statewide. This effort will happen in concert with the remediation efforts described above.

- ***Pilot Content Management.*** The Receiver's Office proposes three permanent positions that will be involved in the scanning of all health records documents at two prisons, the Central California Women's Facility and Valley State Prison for Women, both located in Chowchilla.

Staff Comments. It is clear that the department has historically done an inadequate job managing health records and that this deficiency has likely contributed to poor quality care, as well as fiscal inefficiencies. So, while efforts to standardize, automate, and centralize the management of inmate health records makes sense, it remains unclear whether the additional resources requested are necessary. This is because it is unclear whether the CPHCS has existing resources in its budget to do this administrative management work. Also, it remains unclear how this proposal works in concert with the HIM proposal included among the 19 projects proposed by the Receiver's Office (see Issue 7 below). The Receiver's Office states that these two proposals are in addition to each other and are not duplicative.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- What existing resources does the Receiver's Office have in its existing budget that it has been applying towards the improvement of health records management?

- Why does the remediation and support effort rely on contract staff? Who will be the vendor for these services and what are their qualifications for this type of work?

- What will be the ongoing costs for this effort, particularly the ongoing costs to expand the pilot content management project to the remaining 31 institutions?

- To which projects are all 14.1 PY's assigned? Only three state staff are identified here (for the pilot program)?

- Can the Receiver's Office clarify the distinction between what is being requested in the proposal versus what is requested as part of the HIM project listed as one of the 19 projects included in Issue 7 of this agenda?

Issue 6 – Section Letter: Redirect Position Funding to Headquarters

Background. On December 9, 2009, the Department of Finance sent to the Joint Legislative Budget Committee (JLBC) a request from the Receiver's Office to redirect $9.6 million from health care custody positions to establish additional health care positions in the Receiver's Office headquarters. The JLBC did not concur with the request and instead directed the Receiver's Office to present its proposal to this committee for the budget year.

Governor's Budget Request. The Receiver's Office proposes to redirect funding from 106.8 health care custody positions to permanently establish 81 positions in its headquarters. There would be no net cost from the proposed changes. The Receiver's Office reports that the 81 positions were already administratively established earlier this fiscal year.

	2009-10	2010-11	2011-12
General Fund	$0	$0	$0
PY's	-25.8	-25.8	-25.8

As summarized in the table below, the 81 positions would be used primarily for four categories: access to care, administration, construction, and out-of-state facilities.

Categories	PY's	Purposes
Access to care	6.0	Oversight of utilization management
Administration	36.0	Legal (8), business services (7), information technology (12), human resources (9)
Construction	28.0	Construction and renovation planning (19); retired annuitants (9)
Out-of-state facilities	11.0	Monitoring and contract oversight
Total	***81.0***	

Staff Comments. This proposal results in no net increase in costs to the state and may allow the CPHCS to better manage its $2 billion operations, as well as support its role in the development of prison construction plans totaling billions of dollars in costs under AB 900 (Solorio). However, given the ongoing nature of the request, as well as a lack of detail in the submittal to JLBC, the JLBC directed the Receiver's Office to present a more detailed proposal to this subcommittee. While the Receiver's Office has provided a much more detailed explanation of how it intends to use the proposed headquarters positions, there continues to be some additional information needed to sufficiently evaluate the plan. These issues are as follows:

- ***Overall Staffing and Funding Plan.*** The proposal does not identify what its current staffing levels are for most of these functions, making it difficult to evaluate the degree to which current staffing is insufficient. In addition, the proposal does not identify how the $9.6 million is distributed across the four categories of staffing.

- ***Access to Care.*** These positions seem to be justified under the proposal. The Receiver's Office provides data showing that utilization management efforts have reduced referrals to outside care by 36 percent during 2009, and hospital bed usage has been decreased by 19 percent over the second half of the year. While the Receiver's Office did not estimate the share of these savings directly attributable to these positions, it is highly likely that the savings would greatly exceed the cost of the six positions proposed given the costs associated with outside medical services and hospital beds.

- ***Administration.*** Some of the positions requested make more sense than others. The Receiver's Office reports that it previously had no legal positions authorized despite legal responsibilities. Also, some additional IT positions seem like they might be warranted given the number and complexity of IT projects being undertaken by the Receiver's Office. However, it is unclear how the Receiver's Office determined the need for the number of positions requested in many cases. For example, it is unclear how the IT position need was determined in light of the hundreds of additional positions being proposed under the Project Management Office: 19 Projects proposal (discussed in Issue 7 of this agenda).

- ***Construction.*** While the Receiver's Office plays an integral role in development of construction and renovation projects, and there are many such projects under development, it remains unclear the specific role of the CPHCS versus CDCR, the primary construction manager of most projects. The CPHCS also has not identified its current staffing level for these purposes or how it determined a need for 28 positions. Finally, it is unclear why it would specify that nine of these positions be reserved for retired annuitants.

- ***Out-of-State Facilities.*** It appears appropriate that an expansion of out-of-state facility usage, as proposed by the Governor, would result in additional health care workload related to oversight. However, the Receiver's request provides no information on how 11 positions were determined to be needed, nor does the proposal compare this request to its base staffing level for this purpose.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- What was the total staffing level for CPHCS headquarters and specifically for these purposes prior to the redirection of positions?

- How is the $9.6 million distributed across the different categories and purposes?

- Why did the Receiver's Office feel comfortable eliminating the 106.8 health care custody positions? Did the Receiver's Office determine that those positions were not critical to ensuring access to care in the prisons despite access being a major component of the turnaround plan? Will the elimination of those positions result in increased custody overtime costs to provide access to care?

Issue 7 – Project Management Office: 19 Projects

Background. As described above, the Receiver has submitted to the court a Turnaround Plan of Action that identifies six overarching goals and 25 more specific objectives for how it will bring inmate health care into constitutional compliance. Goals include ensuring timely access to care, providing a full continuum of health care services, providing a quality medical workforce, implementing quality improvement programs, establishing medical support infrastructure, and providing necessary facilities.

Governor's Budget Request. The Receiver's Office requests $235.4 million in 2010-11 and lesser amounts in subsequent years to implement 19 different projects designed to implement the Receiver's Turnaround Plan of Action. The Receiver has also identified $111.3 million in the current year for these projects and will seek a supplemental appropriations bill for this purpose.

	2009-10	2010-11	2011-12
General Fund	$111,264,255	$235,373,691	$209,680,487
PY's	10.6	177.3	268.4

The 19 projects cover a variety of health care operations and are mostly, though not entirely, IT related. In total, the projects are estimated to cost about $820 million over the next five years. About half of the proposed costs are associated with three projects: (1) healthcare network infrastructure, (2) clinical data repository, and (3) health care data center.

The cost for each project is identified in the table on the next page, followed by a brief description of the purpose of each project as described in CPHCS documents.

Project Management Office: 19 Projects
(Dollars in Millions)

	2009-10	2010-11	2011-12	Five Year Totals (FY 2009 - 2013)
Healthcare Network Infrastructure	$40.8	$53.5	$49.2	**$181.5**
Clinical Data Repository	$9.6	$34.3	$41.7	**$118.5**
Health Care Data Center	$10.1	$35.2	$20.7	**$107.5**
Health Information Management	$2.2	$10.8	$19.3	**$58.7**
Business Information Systems	$9.4	$13.1	$7.3	**$43.1**
Laboratory Services Mngt	$0.1	$10.2	$9.1	**$43.0**
Telemedicine Services	$0.6	$8.5	$8.7	**$41.4**
Clinical Imaging Services	$4.9	$14.5	$9.3	**$37.2**
Pharmacy - eMAR	$0.1	$13.3	$12.8	**$35.6**
Pharmacy - GuardianRx	$12.1	$7.7	$6.3	**$34.4**
Pharmacy - Central Fill	$1.0	$10.7	$6.3	**$25.4**
Strategic Offender Mngt. System	$5.2	$5.6	$5.6	**$23.0**
Health Care Scheduling System	$5.0	$6.9	$6.1	**$21.8**
End User Migration to Data Center	$5.1	$0.6	$0.8	**$17.0**
Access to Care: Utilization Mngt.	$3.0	$4.3	$3.7	**$15.1**
Centralized Dictation & Transcription	$0.8	$4.8	$2.2	**$13.1**
Mental Health Tracking System	$0.6	$0.4	$0.5	**$2.1**
Access to Care: Chronic Mngt	$0.7	$0.5	$0.0	**$1.1**
Medication Admin. Improvement	$0.1	$0.2	$0.0	**$0.3**
Totals	***$111.3***	***$235.4***	***$209.7***	***$819.8***

- ***Healthcare Network Infrastructure ($181.5 million).*** The purpose of the Healthcare Network project is to design and implement an IT network capable of providing all CDCR institutions with a common network infrastructure. Currently, the CDCR institutions do not operate under a single IT network, which means health records and other data cannot be transferred or readily shared by the institutions. The development of this network will not only provide means for institutions to securely share information but also provide the foundation necessary to implement additional IT projects in the future. The Healthcare Network will also allow institutions to be connected to outside vendors, permitting projects such as Telemedicine to be implemented at all institutions.

- ***Clinical Data Repository ($118.5 million).*** Will create and maintain a repository of health information at the point of care that is accessible twenty-four hours a day, seven days a week. These records, compiled from a variety of sources (e.g., laboratory, X-Ray, and pharmacy), will be immediately available to health care providers, even as the inmates move within the institutional system or are re-incarcerated following a release. Information in the database will enable better analysis, reporting, and clinical decision making necessary for health care providers to determine patient health status accurately, prepare recommendations, and ensure patient safety in prescriptive actions.

- ***Health Care Data Center ($107.5 million).*** The CPHCS entered into a contract to acquire data center services that are designed to host our mission critical health care information systems in a secured environment, with back up security capabilities, cooling systems, fire suppression, network links and ample storage. The data center establishes a secure, medical grade, core infrastructure to meet the current and future needs of CPHCS health care initiatives and will provide centralized management of LAN/WAN connectivity to the 34 distributed CPHCS endsites statewide. Prior to this contract, the systems were hosted in a setting where cooling and power distribution was inadequate to run all of the computing environments and lead to disruption of services. In addition, the preventative maintenance window of opportunities shortened, which at times required the systems to be brought down for maintenance. The Health Care Data Center project establishes the core foundation for all health care information technology solutions deployed in support of the CPHCS.

- ***Health Information Management ($58.7 million).*** This project is aimed at stabilizing and remediating the volume of intensive, laborious paper process of HIM operations as well as facilitating the migration from paper-based Unit Health Records (UHRs) to hybrid UHRs (paper and electronic) and eventually to all electronic UHR (or Electronic Medical Record – EMR). This effort also includes equipment to support efficient, safe, and secures HIM operations at the institutions. This request is in addition to the funding requested under Issue 5 of this agenda.

- ***Business Information Systems (BIS) ($43.1 million).*** BIS is the central business operational management information system used by CDCR. The BIS will manage the following operational functions for the entire department, including CPHCS: accounting, budgeting, procurement, contracting, and human resources. The CPHCS participates with CDCR in the funding and implementation of the commonly used components of BIS (i.e., budget, personnel, procurement, etc.). In addition, there are components that are unique to CPHCS. The CPHCS has project leadership for the following functions: (1) medical invoice adjudication and automated payment system, and (2) nursing services shift scheduling.

- ***Laboratory Services Management (43.0 million).*** Focused on improving reference lab contracts, filling laboratory leadership positions, and addressing known shortfalls identified in lab system assessment.

- ***Telemedicine Services ($41.4 million).*** Expand telemedicine technology infrastructure and utilization, which will expand access to care and available provider pool, and reduce costly transportation of inmates.

- ***Clinical Imaging Services ($37.2 million).*** Focusing on replacing inoperable and inadequate equipment, procuring new equipment as needed, and standardizing systems and procedures, allowing ability to view imaging films statewide.

- ***Pharmacy – electronic Medication Administration Record ($35.6 million).*** The Medication Administration Record (MAR) serves as the legal paper record of the drugs distributed to a patient. Typically the MAR includes patient identification information, the medication name, dosage, frequency of distribution, scheduled time to take medication, and other vital information. Implementation of an Electronic Medication Administration Record (eMAR) provides electronic documentation of all medication distributed at point of service using barcode technologies, freeing nursing staff from the time-consuming task of documenting distributions by hand. An eMAR also provides quality control checks imperative to patient safety by positive identification of a patient and matching of that patient with the barcode verified medication. The electronic system will also allow nursing staff to record medication dispensing and will automatically track date and time distributed, and the schedule of medication distribution. An eMAR would also alert nursing staff if a medication to be dispensed is in conflict with previously distributed medication and would indicate if any allergies are present or can cause allergic reactions.

- ***Pharmacy – GuardianRx ($34.4 million).*** The GuardianRx pharmaceutical software tracking system will create a single database that enables users to interface, track, and help facilitate the medication dispensing for all the inmate-patient specific medications, orders, usage, and the inmate history of prescribed medications. This project will establish a standardized formulary that supports the uniformity of medication and prescription business processes for medical, dental, and mental health clinical practitioner's use.

- ***Pharmacy – Central Fill ($25.4 million).*** Development of a centralized medication warehouse with an automated prescription packaging and distribution system. The automated centralized pharmacy will provide advantages of scale related to efficient purchasing, inventory control, volume production, drug distribution, workforce utilization, and increased patient safety. Currently pharmacy operations are decentralized among 33 CDCR facilities with duplicative inventory, inefficient or non-existent systems for tracking medications, and a general lack of internal controls necessary to prevent diversion and maintain accountability.

- ***Strategic Offender Management System (SOMS) ($23.0 million).*** The SOMS project is a comprehensive inmate tracking system undertaken by the CDCR. When complete, SOMS will consolidate existing databases and records to provide a fully automated system, replacing manual paper processes and upgrading and standardize data and population management practices. The SOMS is essential to all of the CPHCS information technology projects. It provides access to basic data, such as: general inmate information; inmate location; and, special needs (such as, those related to the Americans with Disability Act (ADA), interpreters, or special housing). The SOMS also provides the infrastructure necessary for different projects to share information, including projects dealing with medical care management, health care scheduling, pharmaceutical dispensing, and contract billing.

- ***Health Care Scheduling System ($21.8 million).*** The Health Care Scheduling System (HCSS) will provide the capability to track requests for care, referrals, and appointments regardless of an inmate's location or the location of the appointment. The system will be fully integrated with SOMS.

- ***End User Migration to Data Center ($17.0 million).*** This project represents the final step in adding users to the new CPHCS network. As the network project finalizes construction at a site, the End User Migration team will follow the completion and assist local staff in moving the computers onto the new network. The new network will give users faster access to the programs being launched by CPHCS like Clinical Data Repository, Dictation & Transcription, Unit Health Record and Health Care Scheduling, to name a few. This project also involves migrating the Maxor workstations off of the independent Maxor network and onto the new CPHCS network. This will represent a significant cost savings as well as allow us to recapture equipment and repurpose it.

- ***Access to Care: Utilization Management ($15.1 million).*** This project will reduce unnecessary expenditures by implementing evidence-based decision systems related to medical specialty referrals. Also, will focus on improving oversight of institutional bed use. Freeing institutional beds provides vacancies to allow patient-inmates to be discharged from expensive community hospitals and cared for in less expensive institution infirmary beds. UM processes also provide data that supports institution compliance with standardized processes, monitoring of outcomes, and enables necessary clinical and educational interventions.

- ***Centralized Dictation and Transcription ($13.1 million).*** Aimed at eliminating backlogs of transcribed physician notes and providing clinicians with accessibility to timely, legible and accurate health information. Will also provide increased efficiency and reduced costs through centralization of dictation and transcription services.

- ***Mental Health Tracking System ($2.1 million).*** The Mental Health Tracking System (MHTS) project replaces legacy applications used at CDCR's adult institutions. Users of the current systems frequently report internal system malfunctions, the inability to connect to other systems, and difficulty running required reports. Each institution has a unique tracking system with undocumented modifications making it difficult for IT staff to repair and maintain. Reports cannot always be generated out of the data that is shared between institutions. These systems pose a problem in providing mental health services when the patient-inmates are moved from institution to institution because of the inability to share and view data from the various legacy applications. The MHTS will be a web-based application for tracking and reporting of mental health services with a centralized database that can be accessed by all 33 adult institutions. The web-based application and centralized data repository will enable sharing of standardized information between adult institutions. It will also enhance the headquarters oversight capabilities of patient-inmate care at the institutions.

- ***Access to Care: Chronic Management ($1.1 million).*** The Access to Care Project has the following objectives: (1) implement a Primary Care Model (developing a consistent relationship between a patient panel and a Primary Care Team), (2) implement an Episodic Care Model (improving systems intended to provide medical services in response to unexpected medical conditions, e.g., sick call), (3) improve Screening and Assessment Processes through implementation of a Medical Classification System, and (4) implement a Chronic Disease Management and Prevention program.

- ***Medication Administration Improvement ($0.3 million).*** Process redesign focused on increasing timely, efficient and error-free administration of medications to inmates.

Staff Comments. The current state of the inmate health record keeping is clearly inefficient. The medical records for hundreds of thousands of inmates (including current and prior inmates and parolees) are kept in paper files spread across dozens of locations. These records are frequently incomplete or missing when inmates arrive at the reception center, are transferred to a new institution, arrive at prison health care clinics, or are referred to outside health care providers. While expensive to implement, it is likely that the implementation of these projects could result in significantly better treatment for inmates. It is also possible that a more centralized automated health records system could result in efficiencies that reduce duplication and lost time, resulting in lower inmate health care costs.

While these potential benefits exist, there are some downside risks to undertaking the projects. Most significantly, the size of the project portfolio is reason for some concern. Simultaneously implementing a total of 19 projects with a cost of an estimated $820 million over the next five years (and about $96 million annually in ongoing costs) is a major undertaking for such a young organization, as well as one that exists in conjunction with a department (CDCR) and prison system that has not historically been technologically well equipped. It is also worth noting that the IT projects undertaken by the CPHCS have not been subject to the review or approval of the Office of the Chief Information Officer as is required for all state IT projects. This means that there is not likely to be the level of administrative oversight over these projects that could better ensure success or early identification of problems.

It is also worth noting that it is unclear whether there is existing funding in the department's base budget that could be utilized towards these projects. As described above, the budget for prison health care has increased by $1.4 billion since the inception of the *Plata* case. While much of that additional spending authority is for things unrelated to the implementation of these projects (e.g. increased medical staff and salaries), it is unclear the extent to which the Receiver's Office is applying any funds provided by the Legislature in past budget cycles for purposes of improving medical care and health records towards these projects. For example, the Legislature has already approved millions of dollars for the expansion of telemedicine and improvement of pharmacy systems.

Finally, staff would note that given the number, scope, and costs of these projects, it will be important for the Legislature to remain informed about the status of their implementation, particularly if there are any major cost overruns. Therefore, it may be worth seeking a commitment from the Receiver's Office to provide a regular status update on the projects, perhaps in conjunction with his tri-annual reports to the federal court.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- How is the Receiver's Office able to manage such a large portfolio of projects all at the same time? What staffing and contract resources in the Receiver's base budget are dedicated to these efforts as distinguished from resources devoted to the day to day management of the existing system?

- Are additional resources really necessary for the non-IT portion of these projects? To the extent that some of these projects involve developing new standards, procedures, routines, and policies, why is the existing administrative and management personnel insufficient or unable to do that work?

- To what extent are the IT projects commercial off the shelf systems already developed versus ones being created new?

- What are the ongoing costs of these projects considering that, while many of these are implementation projects, they will also require some level of resources for ongoing maintenance and training?

- Are there likely to be savings associated with any of these projects, either in the near term or longer term, because of greater efficiencies, for example? What would be some examples of such efficiencies? Has the administration or Receiver's Office attempted to estimate the magnitude of such efficiencies and savings?

- What is the current status of these projects? Are they all on schedule and on budget to date? Will the CPHCS keep the Legislature apprised of the progress of implementation going forward?

- What will happen if projects go significantly over budget?

- When will the automation of inmate health records be completed statewide?

Issue 8 – Unallocated Reduction of $811 Million

Background. The cost of inmate medical care (excluding mental health, dental care, and health care administration) is projected to be $10,482 per inmate in the current year. The administration reports that this is significantly greater than other states. For example, the average inmate health care cost in New York is $5,757 and in Florida is $4,720. The administration attributes much of high costs in California to factors including high staffing ratios, high staff salaries, and greater use of contract medical services.

Governor's Budget Request. The administration proposes to reduce the budget for inmate health care by $811 million. This would result in bringing the average cost for inmate health care to about $5,740, comparable to the level of New York.

	2009-10	2010-11	2011-12
General Fund	$0	-$811,000,000	-$811,000,000
PY's	0.0	0.0	0.0

Staff Comments. Though this reduction was proposed by the administration, the Receiver's Office has stated its support for the proposal and its intention to achieve the budgeted savings level. However, the Receiver's Office reports that it has not yet determined how it will achieve these savings and is currently reviewing various alternatives.

Currently, the Department of Finance's Office of State Audits and Evaluations (OSAE) is developing a staffing analysis of the California prison medical system as compared to other states. The administration and Receiver's Office believe the results of this study – to be completed in April – may provide some insights.

In addition, the administration's budget proposal notes that other states utilize different health care models in prisons that may be somewhat less expensive. For example, Pennsylvania contracts for some services – medical, psychiatric, and pharmacy – while using state employees for other functions, and Texas contracts with the University of Texas Medical Branch to provide prison health care services.

In weighing this funding request, the committee may wish to direct the following questions to the Receiver's Office.

- What are the types of approaches the Receiver's Office and administration are considering for reaching the proposed $811 million in savings?

- Is it realistic to believe that a savings level of that magnitude can be achieved in the budget year? If efforts fall short, what are the consequences?

- What is the status of Finance's OSAE audit?

- How did the administration determine that New York was the right state to which to compare California's average cost for inmate health care? Did Finance look at other states, as well?

Senate Budget and Fiscal Review Subcommittee #4
on State Administration, General Government,
Judicial, and Veterans Affairs
and
Assembly Budget Subcommittee #4
on State Administration

Senator Mark DeSaulnier, Chair	Assemblymember Warren Furutani, Chair
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	Assemblymember Paul Cook
	Assemblymember Kevin Jeffries

Agenda

Joint Hearing on Budgeting Accountability and Transparency in the California Department of Corrections and Rehabilitation

Tuesday, March 23, 2010
2:00 p.m.
Room 447

Consultants:
Brian Brown, Allan Cooper, Matt Osterli, Joe Stephenshaw

Issue **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.

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.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

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 five 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 2010-11 General Fund budget for CDCR is $8.5 billion, primarily for adult prison operations. This total is a decrease compared to the current year, primarily because of proposals to reduce spending on inmate health care, make certain felony offenses punishable by local jail instead of prison, and the continued implementation of legislative reforms enacted in the 2009-10 budget. Overall, the Governor's proposed budget provides about 11 percent of General Fund resources to CDCR.

Issue 1 – Budget Act Programs

Background. The Department of Corrections and Rehabilitation (CDCR) has the largest, and one of the most complex, state operations budget in state government. The total budget, including reported deficiency needs, will top $10 billion this year. There are many influences inside and out of the department that complicate the operations. The federal courts are have ordered a population reduction to bring available medical care per inmate in line with a constitutional standard and instituted a federal Receiver. The department is also governed by federal court orders and stipulated agreements in several other areas of operations. Further, the department has to implement recent changes to drastically reduce programs, implement employee layoffs, and reduce the prison population. Meanwhile, CDCR is forced to address normal impediments to progress and a seemingly endless procession of issues and challenges. And with all of these complications, the structure of the CDCR budget has changed little. The level of visibility the Legislature has provided itself remains the almost the same as when funding for CDCR was 1/3 of current levels.

The bulk of CDCRs funding is appropriated in a single budget item. In the Current Year, that appropriation is $6.2 billion. Within that appropriation sits a single $5.2 billion line item. If CDCRs reported funding shortfalls are approved and incorporated into that appropriation, that line item will be between about $5.5 billion and $5.7 billion. Once appropriated, the administration has control over how the funds are spent, and the visibility to the Legislature on the degree to which funds are actually spent consistent with legislative priorities is limited. This is true of all departments to some extent, but is particularly challenging in a department as large, decentralized, and with as many differing missions as corrections. Therefore, in some cases, the Legislature may not be fully aware that funds are being used for different purposes than originally intended. Many reporting solutions have been tried to track how CDCR spends its budget, but such reports are often after-the-fact and, therefore, limit the Legislature's ability to intervene. For example, in past years the department has used savings from other parts of its budget – particularly from salary savings from vacant positions in administration, institutions, parole, and rehabilitation programs – to cover hundreds of millions of dollars in overtime costs that exceeded its budget authority. However, this occurrence was not readily apparent, in part because of the limited level of detail in the budget act. (It is also worth noting that the Legislature included budget bill language in the 2009-10 Budget Act requiring CDCR to review its overtime usage and provide a plan on how it would reduce those costs. The Governor vetoed this reporting requirement.) To gain increased visibility into, and control over, how CDCR spends the funds the Legislature appropriates, a more proactive approach is required.

By taking a more proactive approach, the process may ultimately lead to something akin to truth in budgeting. It is well known that CDCR routinely moves funding from inmate programs to wherever they are experiencing cost overruns in their budget. If CDCR is required to come forth each year to explain what programs are not being delivered and why; and why those funds should be moved to pay for other activities, eventually an assessment could be made about whether a permanent budget change should be made. As funding for activities begins to look more like spending on activities, the true picture of CDCR operations will become more apparent.

Staff Proposal. One method of achieving increased visibility into and accountability of a budget is to increase the detail in the budget act. That is, break up the enormous appropriations into smaller appropriations and require CDCR to notify the legislature whenever funds are moved between appropriations. This will give the Legislature the ability to designate funds for a specific purpose, be able to see that the funds are budgeted for that purpose, and rest relatively assured that the funds are not used for any other purpose. Any new structure would need to allow the department to move funds between Items, but with legislative notification. This structure would give the department a level of flexibility consistent with current Budget Act provisions, eliminate the large appropriations, and give the Legislature increased visibility into how CDCR spends their budget. It will also provide the opportunity to concur with the actions of the department, or reject requests and put the department on notice that the direction they are headed is not something the Legislature will be willing to provide funding for. There are several ways to divide up their budget.

1. **Break the budget into multiple Items.** Additional Items would be created to bring the total size of each Item down to a reasonable amount. Rather than a single $6.2 billion Item, CDCR would have something like 10 Items totaling $6.2 billion. This will allow the Legislature to appropriate funds for specific types of expenditures, and then see if the funds are spent in those categories. Separate Items could be created for administration, inmate support, education, security, inmate programming, or any other category. The benefit is that in the event CDCR was going to overspend an Item, they would need to come to the Legislature to get permission to move the money from another Item. If a request is submitted for a net funding increase, the Legislature would have the opportunity to examine spending in all Items, and determine if an increase is warranted. Please see Attachment A for an example.

2. **Add additional programs to the Main Item.** Existing programs would be broken into smaller programs. The dollar amounts too would be broken into smaller pieces. CDCR's main item is now comprised of 10 Programs. These ten programs, for funding purposes, would be broken into 20 programs, or 40 programs, or however many would be necessary to get the appropriations down to comfortable levels. Control Section 26.00 allows for intraschedule transfers and requires no transfer over $200,000 may occur less than 30 days following notification of the budget committees of each house and the JLBC. In these cases, the JLBC may issue a letter to the administration stating whether it concurs with the transfer. This language would govern schedule transfers between the many programs in an expanded CDCR main item. Please see Attachment B for an example.

3. **Fund each institution independently.** This proposal would create either 33 separate Items, or 33 separate programs within several Items, to appropriate an amount of funding specific to each institution. This proposal would have the most drastic effect on budget detail and budget information. If each institution were individually funded for an expanded schedule of programs, the budget of CDCR would very much be under a microscope. This level of information, and the impending requests to move money around would tell a great deal about how the department spends money, how costs of differing locations and inmate levels affect costs, and possibly even which wardens manage better than others. New York budgets their prison system this way. Please see Attachment C for an example.

Staff Comments. The Legislature may write the Budget Bill in any way that provides the funding and controls they desire. The Legislature has the right to expect visibility and accountability with respect to the appropriations they make. Because of the extraordinary size of the appropriations in CDCR's budget, the level of visibility into how funds are spent, and the ability to hold CDCR accountable to spending funds in a way consistent with the will of the legislature is very low. Reporting serves a purpose, but is not proactive. The proposal above will increase visibility and accountability in the budget of CDCR. Finding the right mix of Items and Programs will benefit the Legislature greatly.

Staff Recommendation. Staff should be directed to continue working with the LAO, DOF, and CDCR to find a format that reach the goals of the Legislature. This could include a mix of Item creation and Program proliferation to best achieve that goal. A final proposal should be completed by the first week of May for approval by the subcommittees in each house.

Issue 2 – Annual Report of Performance and Outcomes

Background. The CDCR is a multi-billion dollar General Fund agency with multiple, sometimes competing programs and missions and about 60,000 employees. It is responsible for running 33 state prisons safely and effectively, providing health care treatment for about 170,000 inmates, operating effective education, vocation, and substance abuse programs for tens of thousands of inmates, supervising over 100,000 parolees, holding tens of thousands of parole hearings, monitoring hundreds of service and contract providers, implementing new IT systems costing hundreds of millions of dollars, building new prison facilities costing billions of dollars, reforming the state's juvenile justice facilities to create a more rehabilitative system, monitoring local jail standards for all 58 counties, and administering local grants totaling hundreds of millions of dollars.

Unfortunately, numerous reports from various oversight agencies, commissions, and courts have found significant deficiencies in department performance in many of these areas. In some cases, the deficiencies have been so severe as to result in court findings that the department was violating state and federal constitutional requirements. Efforts to address the deficiencies identified in these reports and court findings have costs the state billions of dollars over recent years. While most would agree that improvements have been made, it has not always been clear how much progress has been made, what is left to be achieved, or whether the state has always taken the most efficient and effective approaches to these remedies.

In response to these concerns, the Legislature has taken steps to attempt to address what is sometimes perceived as a lack of transparency and accountability in this large, complicated agency. Legislative efforts have included instituting various reporting requirements. Probably the most significant of these reporting requirements is Penal Code Section 2063, added in budget trailer bill in 2007. This section requires the department to provide program information by January 10 of each year, coinciding with the release of the Governor's proposed budget. While this effort has successfully produced more regular reporting of information that was not previously available, it is not a perfect approach because it comes in two separate reports, neither of those reports is accessible to the public on the department's website, the reports are not as comprehensive as they could be, and much of the data required are focused more on population counts than performance measures and outcomes.

In 2009, the Senate budget subcommittee #4 directed committee staff, the LAO, CDCR, and DOF to begin working on creating a better annual reporting structure. These parties, as well as staff from the Assembly budget subcommittee #4 and other legislative staff, worked collaboratively in the spring of last year to develop a new approach that could be presented to the Legislature. Unfortunately, it was not possible to complete that process in time to be included as part of the 2009-10 budget. The parties have continued to work on this project, and CDCR and DOF have continued to be supportive partners in this effort, though staff still awaits feedback from CDCR on what it views as the most appropriate outcome measures to track.

Staff Proposal. Committee staff, with the assistance of the department, DOF, and LAO, have drafted a proposed reporting structure that would require CDCR to report annually on its performance in various areas of operations. An example of the reporting requirements and structure for one area of operations (adult prison programs) is provided as Attachment D. The structure of this report would include the following characteristics:

- ***Focus on Key Outcome Measures.*** The department would be required to report on key performance indicators. Too often reporting requirements focus on population counts and participation rates rather than outcome measures that present information on the effectiveness of a department or program. Focusing on outcomes is essential to holding departments accountable for performance. The staff proposal also attempts to focus on the most critical outcomes that provide the key barometers of success rather than requiring CDCR to provide so much detail that it becomes overwhelming. Correctly identifying critical outcome measures should provide the Legislature the information necessary to identify when major problems arise, and when that occurs, the Legislature can always request more detailed information and explanations.

- ***Linked to Budget Programs.*** The report would be sectioned by major budget program which are organized by major areas of operations or mission. As currently drafted, these would include (1) administration, (2) Corrections Standards Authority, (3) adult prison operations, (4) adult prison health care, (5) adult prison programs, (6) adult parole, (7) juvenile facilities operations, (8) juvenile health care, (9) juvenile rehabilitation programs, (10) juvenile parole, and (11) Board of Parole Hearings. (It should be noted that the current draft of this proposal is linked to the *current* budget programs. Any changes made to those programs, as discussed in Issue 1 of this agenda, can be reflected in the final version of this report.) Making this linkage between the budget for various department missions and the outcomes for those operations should better allow the Legislature to analyze program performance and outcomes in light of the resources provided. In this vein, each section would include budget information in the report in addition to the performance outcomes. This budget information would include budget allotments and actual expenditures in prior years, as well as authorized staffing levels.

- ***Provide Trend Data.*** For each outcome measure, the department will be required to provide data for the prior three years. This will better allow the Legislature to identify positive and negative trends. This will be far more informative than just providing a data for a single year. For example, if the Legislature provides additional resources to address an operational problem (e.g. excessive overtime usage), it would be able to track in subsequent years whether overtime usage has changed in both the direction and magnitude originally estimated.

- ***Establish Department Goals.*** The report would also require the department to state its goal for each performance measurement. For example, the department might state that its goal is for the average daily attendance in its education programs to be 80 percent of enrollment. By establishing its goals, this provides the Legislature with a better understanding of department priorities, as well as defines to what outcomes the department is managing. Moreover, if the department falls short of (or exceeds) stated goals, this can lead to a conversation of the underlying reasons.

- ***Publicly Available on the Website.*** Finally, committee staff envision the report be made available to the public as well as the Legislature by requiring it to be posted on the website. As a public agency, particularly one receiving tens of billions of dollars in

General Fund support, information about CDCR's performance should be easily available to the general public.

Benefits of an Annual Report. Staff believe that requiring the type of report described above will make department operations more transparent, better allow the Legislature to make informed budgetary decisions, and hold the department accountable for its performance. This will better enable the Legislature to analyze which operations and programs funded with taxpayer dollars are working as intended, which are failing, and which require improvement. Currently, the size and complexity of this department make it too easy for ineffective programs to go unnoticed, at least until the problems are too big to miss (and sometimes resulting in expensive class action lawsuits).

Standardizing outcomes reporting can instead mean that the Legislature is informed at an earlier stage when programs are not working as intended. This will allow legislators to make more informed decisions about how to address those problems whether that be through greater oversight, eliminating ineffective programs, or improving programs that are evidence-based but poorly implemented. Importantly, standardized reporting can also help to identify what *is* working in the department and, where appropriate, allow the Legislature to target limited resources on those operations.

Annual reporting of performance measures will not by itself result in better department operations and outcomes. That will require ongoing oversight by the Legislature and administration to ensure that the department is managing to achieve improved outcomes. However, such oversight requires quality information, and to the degree that such information is provided and relied upon, it can result in a more cost-effective state corrections system.

Staff Recommendation. Committee staff recommend that the joint committee direct staff, LAO, DOF, and CDCR to finalize the annual performance outcomes report for consideration in each subcommittee in the coming weeks. The CDCR has notified staff that while it continues to support this effort, it would like more time to review the specific performance measures proposed to ensure consistency with its Strategic Plan which is currently being finalized. The department has agreed to provide its feed back by May 3rd, in time for consideration by the subcommittee prior to the release of the May Revision.

Staff would further benefit from direction on the following details:

- ***Content and Format.*** Committee staff have shared the latest draft of this report with CDCR (as well as the Receiver's Office). The department has been working with their program staff to identify whether they would recommend any changes to the specific outcome measurements based on what they would consider to be the most appropriate measures of outcomes, as well as what data points are currently collected and available for reporting. (For example, in recent years CDCR has used a program called COMPSTAT to standardize the tracking of programs and activities on a statewide basis.) The committee may wish to direct CDCR to finalize this analysis so that any changes they suggest can be considered before the subcommittees make their final decisions.

- ***Statutory Mechanism.*** What is the best way to enact the requirement for the department to report annually – trailer bill, budget bill, or supplemental report language? Staff recommend the adoption of trailer bill language establishing the

- ***Elimination of Existing Reporting Requirements.*** The CDCR reports that it is currently subject to dozens of existing reporting requirements in statute. Staff would recommend that the committees consider eliminating many of those requirements if it adopts the staff proposal. This will reduce the need for duplicative and unnecessary reports and allow the department to focus on the production of this more comprehensive annual report. Therefore, the committee may want to direct the department to provide a list of the statutory requirements it would recommend for elimination prior to subcommittee hearings.

Issue 3 – Inmate Population Budget Process

Background. The CDCR receives annual budget adjustments to account for changes in caseload, in particular changes in the number of inmates and parolees housed and supervised by the department. These adjustments generally include resources for food, clothing, inmate health care, administration, and security staffing. The Governor's population budget request also includes funding for other issues, including inmate mental health caseloads, contracted facilities, and the state's juvenile ward and parolee population.

The CDCR's process for creating the population budget request is one that takes several months and is completed twice each year as part of the state's standard budget process. The first time is as part of the Governor's budget request submitted January 10 of each year, and the second is as part of the May Revision.

The process of identifying necessary budgetary changes begins with the identification of what change in the inmate and parolee populations is likely to occur. To this end, in the summer of each year, CDCR staff analyze data on recent and historical trends that affect inmate and parolee populations, including numbers of court admissions, parole revocations, average time served by offenders in prison, and discharges from parole. Using this data, CDCR projects the inmate and parolee populations over the next several years. Department staff update their projections in the winter to serve as the basis of the May Revision adjustment.

Using the population projections, the department then creates the Institution Activation Schedule (IAS) for the prisons. The IAS takes the inmate population projections, as broken down by gender and security level, and specifies which housing units at each prison will have to activate or deactivate beds each month in order to accommodate the change in population in both the current and budget years.

Once staff at each institution know how many inmates are projected to be sent to them at various points in the year based on the IAS, they identify how many and what type of positions they would need to provide security and operate other services. Similarly, if the IAS shows that there will be fewer inmates sent to the prison in a year than they now hold, the staffing packages identify what positions at that prison will be cut from the budget. Historically, the department provides for changes in staffing levels based on a ratio of about one staff position for each six inmates. Department policy requires that at least 6 percent of those positions included in each staffing package be for health care staff. Most of the remaining positions are for custody staff, particularly correctional officers, though institutions have flexibility to request other classifications if those would better meet their operational needs.

As with all budget proposals, the population budget request must be approved by the Department of Finance (DOF) and is then sent to the Legislature for consideration. The entire population budget request generally fills about four, four-inch binders, but the department provides the Legislature an abridged version that is usually included in two binders.

Staff Proposal. Staff has proposed that, rather than using a blanket ratio of six to one to make population based adjustments, the CDCR develop ratios based on the level of inmate. For example, Reception Center, Level IV, and inmates in Specialized Housing (such as Security Housing Units) generally require greater attention and thus devotion of more resources than Level I, Level II, or even Level III inmates. Due to the varying levels of resources needed for each type of inmate, the ratios used to determine resource need should tie more closely to the population changes by type of inmate. Staff believes that this could be accomplished in a cost neutral manner for the short term.

Staff also has proposed that the CDCR be allowed the ability to allocate resources to institutions as needed and that the department cease developing the IAS for budgeting purposes. This would not only provide the department flexibility in managing resources but also eliminate the significant staff time that is currently devoted to this task.

Challenges with this approach would be determining the appropriate ratios for each type of inmate and establishing the appropriate method to reduce resources when populations within the varying inmate types decline.

LAO Comments. In its analysis of the 2008-09 Governor's Budget, the LAO noted the following concerns with the CDCR's population budgeting process. The LAO has indicated that, for the most part, these concerns continue to exist:

1. **Current Process is an Ineffective Approach to Identify Actual Budgetary Needs.**
   a) ***Population projections are done too early to be accurate basis for budget request**.* Because the department's process is complicated and requires many steps to complete, the department is forced to start its population projections—the fundamental basis of the population budget request—very early. A less complicated and more streamlined population budgeting process might allow the department to gather several more months of trend data before completing its projections, thereby improving

the likelihood of more accurate projections and, therefore, budget requests that are closer to the funding level the department really needs.

b) ***IAS is inaccurate and potentially unnecessary.*** The IAS usually provides little useful information about how the funding provided under the budget would actually be distributed among institutions while making the budget request unnecessarily complicated. After completing the IAS and calculating the corresponding changes in staffing costs, the department makes a "below-the-line" budget adjustment to tie its total funding request to a separately calculated aggregate estimate of the change in spending that will result from the projected changes in the inmate population. This aggregate estimate is based on CDCR's marginal cost to incarcerate an inmate.

c) ***Fixed staffing ratio unresponsive to operational needs.*** As discussed above, in developing the staffing packages that tie to its population budget request, the CDCR has for more than 20 years utilized a fixed ratio that assumes that, for about every six additional inmates projected to come to a prison, that prison will get one additional staff position. The one-size-fits-all fixed staffing ratio currently employed does not recognize the differences in missions among prisons, perhaps resulting in some prisons being overstaffed, while others are comparatively understaffed.

d) ***Many States Do Not Make Population Adjustments at All.*** Most other states base staffing levels on regular assessments of what staff is necessary to operate housing facilities and programs.

2. **Inefficient Use of Staff Resources.** The population budget request—produced twice annually—consists of a document that is literally thousands of pages long and requires many hours of CDCR staff time to produce. This includes staff in headquarters and at each institution to develop the IAS, generate and review staffing packages, and produce fiscal estimates. A simpler and more streamlined process might allow the department to reprioritize some of these staff resources for better use, such as providing more time to dedicate to the development and analytical review of policy-driven budget change proposals.

3. **Lack of Transparency.**

a) ***Length and Complexity Inhibits Careful Review by Administration and Legislature.*** The length and complexity of the population budget request make it difficult to understand how individual components of the total request tie back to the population projections upon which they are ultimately based.

b) ***Population Budget Has Historically Included Non-Caseload Funding Requests.*** Legislative staff have been concerned that the department has sometimes included funding requests in the population budget that were not directly a result of caseload changes, but rather policy decisions made by decision makers in CDCR headquarters or institutions.

Staff Comments. In fiscal year 2007-08, the Legislature enacted budget bill language directing the CDCR to improve its current population budget request in order to make it a more transparent document for legislative oversight and to present the reformed population document to the Legislature prior to deliberations of the 2008-09 budget. The requirements of this budget act provision were not met and, subsequently, the Legislature included a similar provision in the 2008-09 budget and, because the requirements of this provision were not satisfied, the 2009-10 budget once again included such a provision.

The CDCR has revised the population budget request to improve the way in which information is presented, including providing more concise descriptions of each issue. Additionally, the CDCR has indicated the intention to develop a base funding need by institution over the next 18 months, which is a process that has the potential to provide information that will improve the understanding of cost drivers. However, at this point, the majority of the larger issues surrounding CDCR's population budget process remain unresolved.

Staff Recommendation. Direct the CDCR to work with staff and the LAO to develop a method to revise the department's population budget request in a manner that more accurately reflects the needs of the inmate population by security level or specialized housing requirement and simplifies the document that is ultimately submitted to the Legislature. This revised methodology should be presented to the subcommittees for consideration at the beginning of May.

EXAMPLE
CDCR Budget Bill Display Revision
Program Creation Method

Currently:

5225-001-0001			7,287,426,000
	10-Corrections and Rehabilitation		
(1)	Administration	396,054,000	
(3)	15-Corrections Standards Authority	11,945,000	
(4)	20-Juvenile Operations	255,030,000	
	21-Juvenile Education, Cocations, and		
(5)	Offender Programs	13,125,000	
(6)	22-Juvenile Paroles	33,747,000	
(7)	23-Juvenile Health Care	82,699,000	
	25-Adult Corrections and Rahabilitation		
(8)	Operations	5,118,266,000	
(9)	30-Parole Operations--Adult	826,375,000	
(10)	35-Board of Parole Hearings	126,328,000	
(11)	40-Community Partnerships	16,629,000	
	45-Education, Vocations, and Offender		
(12)	Programs--Adult	612,378,000	
	Distributed Cost	(205,150,000)	

Legislative Staff Proposed:

5225-001-0001			412,683,000
	10-Corrections and Rehabilitation		
	Administration	396,054,000	
	40-Community Partnerships	16,629,000	
	15-Corrections Standards Authority	11,945,000	
	20-Juvenile Operations	255,030,000	
	21-Juvenile Education, Vocations, and		
	Offender Programs	13,125,000	
	22-Juvenile Paroles	33,747,000	
	23-Juvenile Health Care	82,699,000	
	35.20-Board of Parole Hearings--		
	Juvenile	1,000,000	
5225-007-0001			3,204,367,000
(1)	25.05-Reception and Diagnosis	40,530,000	
(2)	25.10.10-Security--Posted	3,159,966,000	
(3)	25.10.20-Security--Overtime	1,000,000	
(4)	25.15Transportation	2,871,000	
5225-008-0001			1,375,716,000
(1)	25.20-Inmate Support	1,375,716,000	
5225-009-0001			408,877,000
(1)	25.30-County Charges	20,819,000	
(2)	25.35-CCFs	115,445,000	
(3)	25.36-Female Rehab CCFs	56,002,000	
(4)	25.37-OOS Beds	216,611,000	
5225-010-0001			447,159,000
(1)	25.40-Admin	447,159,000	
5225-011-0001			826,375,000
(1)	30.10-Supervision-Case Services-		
	Parole Operations--Adult	826,375,000	
(2)	30.20.010-Community Based		
	Programs	11,460,000	
(3)			
	30.30-Psychiatric outpatiens Services	1,000,000	
(4)	30.40-Parole Adult Administration	1,000,000	
5225-012-0001			126,328,000
(1)	35.10-Board of Parole Hearings--		
	Parole Revocation Hearings	126,328,000	
(2)	35.30-Narcotics Addicts Evaluation		
	Authority	1,000,000	
(3)	35.40-Board of Parole Hearings		
	Administration	1,000,000	
5225-013-0001			617,378,000
(1)	45.10-Academic Education-Adult	612,378,000	
(2)	45.20--Vocational Education-Adult	1,000,000	
(3)	45.25-Library	1,000,000	
(4)	45.30-Substance Abuse Program	1,000,000	
(5)	45.40-Inmate Activities	1,000,000	
(6)	45.50-Education, Vocation and		
	Offender Program Administration	1,000,000	

EXAMPLE
CDCR Budget Bill Display Revision
Program Creation Method

Currently:

5225-001-0001		7,287,426,000
(1)	10-Corrections and Rehabilitation Administration	396,054,000
(3)	15-Corrections Standards Authority	11,945,000
(4)	20-Juvenile Operations	255,030,000
(5)	21-Juvenile Education, Cocations, and Offender Programs	13,125,000
(6)	22-Juvenile Paroles	33,747,000
(7)	23-Juvenile Health Care	82,699,000
(8)	25-Adult Corrections and Rahabilitatior Operations	5,118,266,000
(9)	30-Parole Operations--Adult	826,375,000
(10)	35-Board of Parole Hearings	126,328,000
(11)	40-Community Partnerships	16,629,000
(12)	45-Education, Vocations, and Offender Programs--Adult	612,378,000
	Distributed Cost	(205,150,000)

Legislative Staff Proposed:

5225-001-0001

(1) 10-Corrections and Rehabilitation Administration
(3) 15-Corrections Standards Authority
(4) 20-Juvenile Operations
(5) 21-Juvenile Education, Vocations, and Offender Programs
(6) 22-Juvenile Paroles
(7) 23-Juvenile Health Care
(8) 35.20-Board of Parole Hearings--Juvenile

(9) 25.05-Reception and Diagnosis
(10) 25.10.10-Security--COCF
(11) 25.10.15--Security Overtime
(12) 25.10.20-Security--CCF

(13) 25.10.30-High Security
(14) 25.10.30-Low Security
(15) 25.10.40-Medical Guarding
(16) 25.10.50-Search and Escort
(17) 25.10.60-Housing Unit/Line
(18) 25.10.70-Ancilary
(19) 25.10.80-Perimeter/ingress/Egress
(21) 25.15Transportation
(22) 25.20-Inmate Support
(23) 25.30-County Charges
(24) 25.35-CCFs
(25) 25.36-Female Rehab CCFs
(26) 25.37-OOS Beds
(27) 25.40-Institution Administration
(28) 30.10-Supervision-Case Services-Parole Operations--Adult--Administration
(29) 30.10-Supervision-Case Services-Parole Operations--Adult--Standard Supervision
(30) 30.10-Supervision-Case Services-Parole Operations--Adult--HRSO
(31) 30.10-Supervision-Case Services-Parole Operations--Adult--High Control
(32) 30.10-Supervision-Case Services-Parole Operations--Adult--Any others that make sense.
(33) 30.20.010-Community Based Programs--Treatment Programs
(34) 30.20.090-Community Based Programs--Employment
(35) 30.30-Psychiatric outpatiens Services
(36) 30.40-Parole Adult Administration
(37) 35.10-Board of Parole Hearings--Parole Revocation Hearings
(38) 35.30-Narcotics Addicts Evaluation Authority
(39) 35.40-Board of Parole Hearings Administration
(40) 40-Community Partnerships
(41) 45.10-Academic Education-Adult
(42) 45.20--Vocational Education-Adult
(43) 45.25-Library
(44) 45.30-Substance Abuse Program
(45) 45.40-Inmate Activities
(46) 45.50-Education, Vocation and Offender Program Administration

CDCR Proposed:

5225-001-0001

(1) 10-Corrections and Rehabilitation Administration
(2) 15-Corrections Standards Authority
(3) 20-Juvenile Operations
(4) 21-Juvenile Education, Vocations, and Offender Programs
(5) 22-Juvenile Paroles
(6) 23-Juvenile Health Care
(7) 25.10 Security

(8) 25.20 Inmate Support
(9) 25.30 Contracted Facilities
(10) 30.10 Parole Supervision
(11) 30.20 Community Based Programs

(12) 35.10 Board of Parole Hearings Adult
(13) 35.20 Board of Parole Hearings Juvenile
(14) 45.10-Academic Education-Adult
(15) 45.20--Vocational Education-Adult
(16) 45.25-Library
(17) 45.30-Substance Abuse Program
(18) 45.40-Inmate Activities

EXAMPLE
CDCR Budget Bill Display Revision
Appropriation by Institution Method

5225-001-0007--For Support of Department of Corrections and Rehabilitation, Avenal State Prison
Schedule:

(1)	25.01.001--Adult Corrections and Rehabilitations Operations-Administration
(2)	25.01.005--Adult Corrections and Rehabilitations Operations-Utilities
(3)	25.01.010--Adult Corrections and Rehabilitations Operations-Feeding
(4)	25.01.020--Adult Corrections and Rehabilitations Operations-Clothing
(5)	25.01.030--Adult Corrections and Rehabilitations Operations-Facility Operations
(6)	25.01.040 --Adult Corrections and Rehabilitations Operations-nmate Employment
(7)	25.01.050--Adult Corrections and Rehabilitations Operations-Classification Services
(8)	25.01.060--Adult Corrections and Rehabilitations Operations-Records
(9)	25.01.070 --Adult Corrections and Rehabilitations Operations-nmate Activities
(10)	25.01.080--Adult Corrections and Rehabilitations Operations-Religion
(11)	25.01.090--Adult Corrections and Rehabilitations Operations-Security
(12)	25.01.100--Adult Corrections and Rehabilitations Operations-Reception & Diagnostics
(13)	45.02.001--Education, Vocation and Offender Programs-Adult-Risk & Needs Assessments
(14)	45.02.005--Education, Vocation and Offender Programs-Adult-Academic Eduction
(15)	45.02.010--Education, Vocation and Offender Programs-Adult-Vocational Eduction
(16)	45.02.020--Education, Vocation and Offender Programs-Adult-OSATS In-Prison Substance Abuse Treatment Pgm
(17)	45.02.030--Education, Vocation and Offender Programs-Adult-Canteen
(18)	45.02.040--Education, Vocation and Offender Programs-Adult-Library
(19)	50.10--Medical Services-Adult
(20)	50.20--Dental Services-Adult
(22)	50.30--Mental Health Services-Adult

CDCR Report Card -- Presenting Department Outcomes **Attachment D**

Adult Prison Rehabilitation Programs

Budget and Expenditures *(Dollars in thousands)*

	2006-07	2007-08	2008-09
Budgeted			
Expenditures			
Difference			

Key Performance Measures

Staffing *(As of June 30)*

	2006-07		2007-08		2008-09		
	Approved PY	Vacancy Rate	Approved PY	Vacancy Rate	Approved PY	Vacancy Rate	CDCR Goal
Classification 1							
Classification 2							
Classification 3							

Programs Assessed as Evidence-Based and Implemented with Fidelity

	2006-07	2007-08	2008-09	CDCR Goal
Total Programs				
% Assessed as Being EBP				
% Assessed for Fidelity				
% Found Adequate or High Fidelity				

Inmate Education Programs

	2006-07	2007-08	2008-09	CDCR Goal
Expenditures				
No. I/M Assessed as Needing Program				
Percent of I/M Enrolled				
Avg. Daily Attendance				
Avg. Cost per Participant				
Percent Advancing Level				
GED/Diplomas Earned				
1-year Recidivism Rate				

Inmate Vocational Programs

	2006-07	2007-08	2008-09	CDCR Goal
Expenditures				
No. I/M Assessed as Needing Program				
Percent of I/M Enrolled				
Avg. Daily Attendance				
Avg. Cost per Participant				
Completion Rate (success)				
Voc. Certifications Earned				
% Employed 1 Year Post-Release				
1-year Recidivism Rate				

Inmate Substance Abuse Programs

	2006-07	2007-08	2008-09	CDCR Goal
Expenditures				
No. I/M Assessed as Needing Program				
Percent of I/M Enrolled				
Avg. Daily Attendance				
Avg. Cost per Participant				
Completion Rate (success)				
Percent Attending Aftercare				
1-year Recidivism Rate				

Other Program Participation Levels

	2006-07	2007-08	2008-09	CDCR Goal
AA/NA				
Anger Management				
College programs				
Family Foundation				
Sex Offender Treatment				

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, March 25, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

(See Table of Contents on page 2 for a More Specific Listing of 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.

AGENDA

*(Recommended Vote-Only Items indicated by *)*

8940 MILITARY DEPARTMENT

Department Overview. 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 provide: (1) mission ready forces to the federal government as directed by the President; (2) emergency public safety support to civil authorities as directed by the Governor; and (3) support to the community as approved by proper 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.

Budget Overview. The January Governor's Budget provides CMD with 865.5 positions and $143.1 million ($45.7 million GF). This is an increase of one position and $5.5 million.

Issues Proposed for Vote Only:

Issue 1 – State Active Duty (SAD) Employee Compensation (BCP #1)

Governor's Budget Request. The Governor requests a baseline augmentation of $1.454 million ($760,000 GF and $694,000 Federal Trust Fund) to cover the SAD compensation increases to be granted effective January 2, 2010, and estimated to be granted January 2, 2011.

Staff Comment. Per state statute, pay for SAD employees must be based upon military pay increases granted by Congress; additional compensation adjustments are also mandated due to a congressionally-approved increase in the military allowance for housing and subsistence.

Issue 2 – Federal Funds and Positions for Force Protection (BCP #2)

Governor's Budget Request. The Governor requests continuation of reimbursement authority in 2010-11 of $3.5 million (federal funds) and the re-establishment of 47 limited-term positions to provide security of CMD installations and Army Aviation Airfields.

Staff Comment. The CNG has eight sites which have been designated by the Department of the Army and National Guard Bureau (NGB) as Mission Essential Vulnerability Areas (MEVAs). The NGB has validated and agreed to federally reimburse the costs of providing security staffing at these MEVAs.

Issue 3 – CalEMA (Homeland Security) Training and Exercise Program (BCP #3)

Governor's Budget Request. The Governor requests continuation of reimbursement authority in 2010-11 of $1.6 million (federal grant funds) and re-establishment of 12 limited-term positions to execute a continuing interagency agreement between the CMD and CalEMA for staffing support and operating expenses to manage statewide terrorism training and exercise programs.

Staff Comment. This request would essentially extend the 12 positions, first approved in 2007-08 as three-year limited-term and therefore expiring on June 30, 2010, for one year or until June 30, 2011, consistent with the interagency agreement between CMD and CalEMA. Federal Department of Homeland Security grant funds reimburse costs associated with the positions.

Staff Recommendation: APPROVE BCPs 1, 2, and 3.

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

Issue Proposed for Discussion / Vote:

Issue 4 – Consolidated Headquarters Complex (COBCP #1)

Governor's Budget Request. The Governor requests $49.1 million ($47.3 million lease revenue bonds and $1.8 million Armory Fund) to fund the state's share of a project to provide the CMD with a 125,000 square foot Consolidated Headquarters Complex (HQ Complex) and a 22,600 square foot storage facility on 30 acres of land at Mather Field in eastern Sacramento County.

Prior Budget Appropriations. In 2006-07, approved a COBCP totaling $1 million (GF) to acquire a purchase option to reserve, for at least two years, the 30 acres of land at Mather Field for the HQ Complex. In 2007-08, approved an additional $100,000 to ensure that the purchase option could be secured.

Federal Funds. The federal government will fund $49.3 million for this first phase of the overall project, including $1.8 million to reimburse the Armory Fund for design costs. At a future date, the CMD indicates that the U.S. Department of Defense (DoD) will fully fund the second and third phase expansions of the HQ Complex, expanding it to 300,000 square feet and allowing the consolidation of all headquarters staff and elimination of additional lease payments.

Background. Detailed federal guidelines, both statutory and regulatory, govern the organization, funding, and operation of the National Guard. While federal regulations dictate much of the Guard's organization and function, control of Guard personnel and units remains within the state, unless a unit is federalized – typically to support operations overseas. It is considered a state responsibility to house the Guard.

The CMD currently owns or leases seven facilities located throughout the state for its headquarters functions; of the seven, four are leased, two are federally-owned, and one is state-owned. These multiple locations result in inefficiency, cause coordination problems, and reduce the overall readiness of the CMD to respond to state emergency missions and federal mobilization requirements. None of the leased facilities are able to protect CMD personnel to the current federal standards for force protection, which are required of all leased buildings by DoD or other governmental agencies and must have the same level of force protection as DoD-owned buildings. These force protection requirements also apply to both newly-leased buildings and extensions of existing leases, and include certain space requirements and sufficient standoffs or setbacks. As a result, the existing CMD Sacramento Headquarters facility lease cannot be extended beyond its current 2017 expiration and identification of a new facility is mandatory.

The HQ Complex is designed to improve the CMD's response to state emergencies, comply with federal force protection standards and eliminate facility lease payments on the CMD's main Sacramento facility. This request provides lease revenue bond authority in 2010-11 to allow Preliminary Plans to be initiated in the budget year. The Administration presents that, approval of this authority in 2010-11 will permit the HQ Complex project to remain on track for completion prior to the current building's lease expiration in 2017. Further, it will allow for property acquisition to occur close enough to the start of construction that lease revenue financing can be used to execute the purchase option rather than having to seek GF.

Figure 1 illustrates the $1.172 million (GF) in estimated increased annual costs to the state for the proposed HQ Complex versus the current leased facility:

Figure 1

	CURRENT FACILITIES	HQ COMPLEX
Lease Costs	$2.8 million	
Debt Payment		$3.8 million
a. Maintenance/Repair	$344,000	$678,000
b. Utility	$468,000	$477,000
Estimated State Cost (a + b less 50% Federal Share of Cost)	$406,000	$578,000*
Total	$3.206 million	$4.378 million

* The CMD staff indicates that the net increase could be smaller as some parts of the new HQ Complex will receive up to 75 percent federal funds.

Staff Comment. Staff agrees that having the CMD located at seven separate facilities across the state is inefficient and that federal force protection standards make a move to a new HQ facility mandatory. A legitimate question can be raised, however, about the timing of this request and why the Legislature must act now to address a problem that does not come due until 2017 when the existing facility lease can no longer be renewed. In response, the CMD staff presented compelling information, including that receiving authority for the project in 2010-11 is critical because: (1) the federal government requires property acquisition authority as a good faith investment by the state before it will authorize planning and design expenditures and the acceleration of construction funding; and (2) the existing purchase option will expire June 25, 2012. Bonds cannot be sold until design has been largely completed (~18 months), and it is these bond proceeds that will be used to acquire the property. Should this date be missed, the state would risk losing the property. Further, while it is an option for the state to seek a purchase extension from the current property owner, it is not certain that an extension is obtainable much less at how large of an increased cost.

Staff notes that the construct of this request is not the standard approach used in the past for lease revenue bond financing. In the past, the Pooled Money Investment Board (PMIB) was used to provide interim financing to cover the costs associated with a project until bonds can be sold. However, the PMIB is no longer available for these purposes due to the state's overall cash flow crisis. Therefore, the Administration is working to develop a different interim financing method to cover the design work associated with the HQ Complex. That interim financing method will be finalized by this summer and approval of this request will grant the Administration the authority to sell the lease revenue bonds at the end of the design phase which will be in the 2011-12 Fiscal Year and keep the HQ Complex project on track for completion prior to the current building's lease expiration in 2017.

It is also worth noting that the need for the CMD Headquarters to move from its current leased facility in Sacramento is real; securing other leased space is not an option as the costs are upwards of $7 million annually which is well beyond either current facility costs or projected annual costs associated with the proposed HQ Complex. Further, CMD indicates that there likely are not any leasable facilities that meet the DoD's force protection requirements. Finally, staff notes that the Legislature essentially approved the HQ Complex project in 2006-07 and, in 2007-08 when faced with an additional funding request, again reaffirmed its support for this project.

Staff Recommendation: APPROVE COBCP #1.

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

2310 OFFICE OF REAL ESTATE APPRAISERS

Department Overview. The mission of the Office of Real Estate Appraisers (OREA) is to ensure the competency and integrity of real estate appraisers through a program of licensure and enforcement. Established in 1990, OREA is entirely funded by licensing fees and is a single program with two core components: (1) licensing and (2) enforcement. The Licensing Unit sets the minimum requirements for education and experience; the Enforcement Unit investigates the background of applicants and licensees to ensure they are fit for licensure as well as complaints of violations of national appraisal standards filed against licensed appraisers. OREA is also responsible for the accreditation of educational courses and providers for real estate appraisers.

Budget Overview. The January Governor's Budget provides OREA with 33.6 authorized positions and $5.125 million (Real Estate Appraisers Fund and reimbursements). This is an increase of one position and $583,000.

Issue Proposed for Vote Only:

Issue 1 – Regulation of Appraisal Management Companies (BCP #1)

Governor's Budget Request. The Governor requests $205,000 (Real Estate Appraisers Fund) and one position to comply with the requirements of Chapter 173, Statutes of 2009 (SB 237) pertaining to registration of Appraisal Management Companies (AMCs). Included in the $205,000, in 2010-11, is $60,000 in one-time expenditures for temporary help to handle the initial influx of AMC registration applicants. The ongoing cost of this request is $143,000 and one position.

Background. The federal Home Valuation Code of Conduct (HVCC) became effective May 1, 2009. The intent of the HVCC is to enhance the independence and accuracy of the appraisal process, and provide added protections for homebuyers, mortgage investors, and the housing market. Any lender that sells a mortgage to Fannie Mae or Freddie Mac must adhere to the HVCC. Under the HVCC, the process of selecting an appraiser has been isolated from the persons who are compensated based on whether a loan is approved (i.e., lenders cannot accept an appraisal report completed by an appraiser selected, retained, or compensated by mortgage broker or real estate agent). While there is no requirement that a lender contract with an AMC, since the implementation of the HVCC, most lenders have opted to utilize the services of AMCs.

As of January 1, 2010, Chapter 173, Statutes of 2009 (SB 237) requires AMCs to register with OREA and subjects them to the provisions of the Real Estate Appraisers Licensing and Certification Law. Chapter 173 also requires OREA to (1) adopt regulations governing the implementation of the registration process and

(2) establish registration fees sufficient to cover administrative costs. OREA estimates that 150 AMCs (of the 250s AMCs operating nationally) will register in California. OREA is proposing an annual registration/renewal fee of $800. As of March 12, 2010, OREA reports that registration applications have been received from 70 AMCs.

Staff Comment. Chapter 173 represents new workload for OREA as AMCs were heretofore unregulated. The one-time temporary help and ongoing new position contained in this request are warranted even in consideration of the recent downturn in the economy. OREA has seen a decrease in the overall number of licensees: 15,099 licensees as of February 26, 2010, which represents a decrease of roughly 2,500 since January 1, 2009, and 25 percent overall since January 1, 2007. The largest drop off in licensees has been in the Appraiser Trainee category, indicating that fewer individuals are entering the profession. However, the number of Certified Residential Appraisers (may appraise any 1-4 family property without regard to transaction value or complexity; and non-residential property with a transaction value up to $250,000) has actually increased by nearly 2,000 licensees during the same period (January 1, 2007 to February 26, 2010). Further, concurrent with the downturn in the economy, OREA's enforcement workload has increased. This increased workload is separate from the new workload associated with regulating AMCs, as OREA receives complaints against existing licensees for fraudulent and/or negligent activity. It is also worth noting that OREA expects new enforcement complaints from licensed appraisers that allege illegal pressuring or unethical business practices being committed by AMCs.

Staff Recommendation: APPROVE BCP 1.

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

2320 DEPARTMENT OF REAL ESTATE

Department Overview. A primary objective of the Department of Real Estate (DRE) is to protect the public in real estate transactions and provide licensing, regulatory, and subdivision services to the real estate industries. The DRE is entirely special funded (Real Estate Fund) and derives its revenues from examination, license, and subdivision fees. The core functions of the DRE are to administer license examinations, issue real estate licenses, regulate real estate licensees, and qualify subdivision offerings.

Condition of the Real Estate Fund. At its April 23, 2009, hearing, this subcommittee examined the condition of the Real Estate Fund (RE Fund). At that time, the LAO estimated that the RE Fund would end the 2009-10 fiscal year with a $500,000 reserve and would become insolvent shortly thereafter. To address this issue, DRE increased fees to the statutory maximum effective July 1, 2009. This increased fee revenue, in combination with the new endorsement fee revenue associated with the budget request discussed below, has resulted in forecasted stability for the RE Fund.

Budget Overview. The January Governor's Budget provides DRE with 378.7 positions and $47.2 million (RE Fund and reimbursements). This is an increase of 27 positions and $6 million.

Issue Proposed for Discussion / Vote:

Issue 1 – SB 36 Mortgage Loan Originator Licensure (SAFE Act) (BCP #1)

Governor's Budget Request. The Governor requests $2.8 million (RE Fund) and 27 positions to implement the federally mandated Secure and Fair Enforcement Licensing Act of 2008 (SAFE Act) which requires states to implement a new licensing program for mortgage loan originators (MLOs).

Background. The federally mandated SAFE Act requires all states to license and register their MLOs through a nationwide registry called the National Mortgage Licensing System (NMLS); prior to the enactment of the SAFE Act, state participation in the NMLS was voluntary. The SAFE Act creates a distinction between MLOs who are employed by depository institutions or subsidiaries of depository institutions, and all other MLOs. Any state failing to voluntarily comply with the SAFE Act risks federal intervention and loss of its existing authority to regulate the mortgage-related activities of its licensees.

Chapter 160, Statutes of 2009 (SB 36) brought the state into compliance with the SAFE Act by requiring those engaging in MLO activities to obtain a license from the Department of Corporations or, if a real estate licensee, obtain a license endorsement from the DRE. This request pertains to the DRE portion of SAFE Act compliance; this subcommittee will hear a request from the Department of Corporations for its area of responsibility on April 29.

The SAFE Act requirements are similar to, but somewhat different from, the requirements for licensure under California's Real Estate Law. Under the SAFE Act, licensed real estate salespersons and brokers who wish to continue engaging in MLO activities must undergo brand new background checks and take different continuing education classes. Licensees will also have to continue to meet the SAFE Act's personal character requirements on an annual basis in order to remain eligible to retain their license endorsements. Corporations engaged in MLO activities will have to register with NMLSR and obtain a license endorsement for their company. Corporations licensed under the Real Estate Law will also have to ensure that each of their MLO employees obtains an individual MLO license endorsement.

Beginning on January 1, 2010, Chapter 160 requires any individual who wishes to perform MLO activities in California under the authority of their real estate license to notify DRE of their intent to do so no later than January 31, 2010. The DRE was scheduled to transition to the NMLS on March 2, 2010, and by December 31, 2010, approximately 39,407 real estate licensees who perform MLO activities in California must obtain a real estate license endorsement from DRE and be registered on the NMLS. Applicants will be charged an endorsement fee of $300 to cover DRE administration costs.

Staff Comment. In approving SB 36 last year, the Legislature approached SAFE Act compliance in a narrow sense by requiring a new endorsement on existing real estate licenses. Staff notes that while this approach has resulted in the least disruption to existing systems and minimized compliance costs to both the state and licensees, the SAFE Act represents new workload for DRE. The 27 positions the DRE is requesting in 2010-11 will be focused on SAFE Act implementation workload, including licensing and enforcement activities and modifications to existing information technology and telecommunication systems. The DRE also indicates it will likely have another request in 2011-12 for additional positions due to additional SAFE Act implementation workload. Finally, DRE reports, consistent with the information reported by the Office of Real Estate Appraisers, that its enforcement workload has increased with the downturn in the economy, especially with regard to "creative" real estate transactions that historically increase during a down market.

The DRE also faces facilities issues which remain unresolved from last year and will only become further exacerbated should the 27 positions in this request be added to DRE, let alone the future positions DRE has indicated will be needed for SAFE Act implementation. As part of the 2009-10 budget, the Governor requested a one-time augmentation of $1 million to partially cover the estimated costs ($1.3-$1.5 million) to relocate and consolidate DRE's downtown Sacramento

Headquarters Office and Examination Center at a new location. At that time, staff did not necessarily dispute DRE's claim that the existing facilities do not meet the long-term needs of the department, given health and safety concerns, deterioration problems, and space constraints at the current location, and once increased rent and the cost of a double move were factored in. However, this subcommittee subsequently rejected the request given the structural deficit in the RE Fund.

The DRE is not requesting an augmentation in 2010-11 to cover the costs of relocating and consolidating its facilities. Rather, recently DRE began work with the Department of General Services (DGS) to secure a new facility in Sacramento. DGS has informed DRE that the earliest it could expect to move would be 12-18 months, effectively pushing the relocation and consolidation to 2011-12. DRE staff presents that the "soft" real estate market should allow it to pursue the consolidation and relocation at less cost than proposed in 2009-10 because landlords will cover a greater portion of the tenant improvement costs.

While it is difficult to estimate the "savings" possible by shifting tenant improvement costs from DRE to the new landlord, in the 2009-10 request tenant improvement costs represented 22 percent of the $3.38 per square foot lease payment (for space of 63,678 square feet). The 2009-10 request also detailed expenses of over $1 million related to the relocation and consolidation including for moving, telephones and data, supplies, and a modular furniture system. Therefore, even under the best case scenario of a landlord covering additional, if not all, tenant improvements, DRE is likely looking at significant costs related to the relocation and consolidation. Staff therefore recommends that DRE not attempt to absorb these costs in its budget via salary savings or delayed expenditures, which could cause a decrease in consumer protection due to delayed investigations, and instead for DRE to present a formal request as part of the 2011-12 budget process so this subcommittee is fully informed of the costs related to the consolidation and relocation.

Committee Questions. Based on the above comments, the Committee may wish the Administration and DRE to provide responses to the following questions:

1. What is the status of DRE's transition to the NMLS? Did it occur as scheduled on March 2, 2010?
2. Given that the positions in this request will not be approved until July 1, 2010, how is DRE staffing the initial phases of SAFE Act compliance?
3. What is the current status of DRE's effort to relocate and consolidate its offices?

Staff Recommendation: APPROVE.

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

8955 DEPARTMENT OF VETERANS AFFAIRS

Department Overview: The California Department of Veterans Affairs (CDVA) promotes and delivers benefits to California veterans and their families. More specifically, the CDVA provides: (1) California veterans and their families with aid and assistance in presenting their claims for veterans' benefits under the laws of the United States; (2) California veterans with beneficial opportunities through direct low-cost loans to acquire farms and homes; and (3) the state's aged and disabled veterans with rehabilitative, residential, and medical care and services in a home-like environment at the California Veterans Homes. The CDVA 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.

Budget Overview: The January Governor's Budget proposes to activate business operations and begin admissions at the veterans' homes in West Los Angeles, Lancaster and Ventura. The Governor also proposes to provide resources and staffing related to the construction of two new homes, in Redding and Fresno. The January Governor's Budget provides CDVA with 2,410.5 positions and $421.8 million ($236 million GF). These increases primarily reflect the planned activation of the new veterans' homes.

The construction cost of these homes was/is funded with $50 million in general obligation bonds available through Proposition 16 (2000), $162 million in lease-revenue bonds (most recently amended by Chapter 824, Statutes of 2004 [AB 1077]), and federal funds.

Issues Proposed for Vote Only:

Issue 1 – Convert Contracted Food Purchasing, Preparation, and Nutrition Services to Civil Service Positions (BCP #5)

Governor's Budget Request. The Governor requests to convert the shared agreement for food purchasing, preparation, and nutrition service operations with a net zero GF impact as follows: (1) VHC-Barstow – 24.5 positions and a funding augmentation of $154,000 in 2010-11 and $131,000 in 2011-12; and (2) VHC-Chula Vista – 34.5 positions and a reduction of $154,000 in 2010-11 and $131,000 in 2011-12.

Background. The VHC-Barstow and VHC-Chula Vista have contracted for food purchasing, preparation, and nutrition services since they opened in 1996 and 2000, respectively. The initial contracts were permitted because the services within the new homes constituted a new function under Government Code 191130(b)(2). After the initial three year contract period, CDVA justified contracted operations with cost savings compared to civil service operations. However, the proposed cost savings personal services shared contract was disapproved by the State Personnel Board on July 1, 2009 and is under appeal. Until the appeal is decided, the intended contract cannot be decided and an interim emergency contract is in place. Emergency contracts, however, are intended to be temporary. CDVA indicates that converting is a legally compliant alternative that also ensures delivery of food purchasing, preparation, and nutritional services in compliance with federal and state mandates and regulations.

Issue 2 – Title 38 Apprenticeship and On-the-Job Training Program (BCP #6)

Governor's Budget Request. The Governor requests one position and expenditure authority of $120,000 (federal funds) to expand California State Approving Agency for Veterans Education (CSAAVE) services to include outreach activities and approval of apprenticeship programs and on-the-job courses.

Background. CDVA is the CSAAVE responsible for determining what programs are approved for use of veterans' education benefits under the federal GI Bill. The 2009-10 budget transferred oversight responsibilities and $1.5 million (federal funds) for CSAAVE from the Department of Consumer Affairs to CDVA. This request expands the oversight to include apprenticeship programs and on-the-job courses.

Issue 3 – VHC-Yountville Fire Alarm System Upgrade Budget Re-Appropriation (COBCP #1)

Governor's Budget Request. The Governor requests a re-appropriation of $222,000 for working drawings and a re-appropriation of $2.235 million for the construction phase of a project to purchase and install a new addressable fire alarm system in seven veteran-occupied buildings and the acute care center at the VHC-Yountville. This project will also provide a central computer system with sufficient capacity to relay the detail provided by the new fire alarm system. Total project costs of $2.574 million include $117,000 provided for preliminary plans in 2008-09. The federal government is providing 60 percent of the funding for this project, or $1.574 million; the state cost is $1.027 million (GF).

2009-10 Budget. Approved Governor's request for $2.2 million ($688,000 GF and $1.5 million federal funds) for the construction phase of the VHC-Yountville Fire Alarm System Upgrade.

Background. Fire/Life/Safety codes for new residential buildings require the use of addressable smoke detectors in each unit. An addressable smoke detector alerts authorities to the presence of smoke and directs them to the exact location. This request is a re-appropriation for a previously approved project. Due to changes in the scope of the project, including the closure of the acute care facility at VHC-Yountville in 2009, CDVA was unable to complete working drawings and construction within its existing authority; hence this request for authority for both phases in 2010-11.

Staff Comment. The Administration indicates that the scope change in this project will be considered through a Public Works Board (PWB) process. Further, while it is possible that some costs have decreased (i.e., due to the closure of the acute care facility) it is also likely that technology costs have increased making the total project cost the same. However, should savings be realized, the state share of savings will revert to the GF. Finally, the PWB is required to provide 20-day notification to the Joint Legislative Budget Committee of any scope change, providing ample time and opportunity for the Legislature to monitor the scope (and costs) of this project.

Staff Recommendation: APPROVE BCP 5, BCP 6, and COBCP 1.

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

Issues Proposed for Discussion / Vote:

Issue 4 – Enterprise-Wide Veterans Home Information System (Ew-VHIS) Budget Re-Appropriations (BCP #12)

Governor's Budget Request. The Governor requests re-appropriation of $6.5 million (GF) from 2007-08 and $216,000 (GF) from 2008-09 to fiscal years 2010-11 and 2011-12 to ensure sufficient project funding for the Ew-VHIS project to acquire an integrated commercial-off-the-shelf (COTS) solution to support the long-term clinical care, financial, and administrative operations of the California Veterans Homes.

2009-10 Budget. Approved the Governor's request for $1.3 million (GF) and 11 positions to convert expiring limited-term positions to permanent status in order to support the ongoing needs of the Ew-VHIS Project. Approved the Governor's request for $878,000 (GF) and conversion of eight limited-term information technology (IT) positions to permanent status to support the Project Management Office and CDVA's ongoing and future IT projects.

Background. The Ew-VHIS project is intended to acquire an integrated commercial-off-the-shelf (COTS) solution to support the long-term clinical care, financial, and administrative operations of the California Veterans Homes. The Ew-VHIS is a mission critical system necessary for the operation of the department and delivery of essential services to the veterans living in the homes.

In January 2007, the Office of the Chief Information Officer (OCIO) approved a Feasibility Study Report for the Ew-VHIS project. The 2007 Budget Act included funding of $10.3 million (GF) and 20.9 positions for the project. In January 2009, a subsequent Special Project Report (SPR) was approved by the OCIO that outlined the changes to the original project scope, schedules, and cost. These changes caused an 18-month delay to the overall project schedule. CDVA originally planned to complete the project by December 2011, but given the delays incurred, the completion date is now estimated as June 2013.

Additionally, in its prior effort to secure a COTS solution for the Ew-VHIS project, CDVA's request for proposal (RFP) required a solution that accommodated the delivery of both acute and long-term care. This was not a solution commonly available in the marketplace. As evidence of this, and in response to the RFP, only one bid was received and it proposed a solution that was highly customized and therefore more costly. In 2009, the acute care facility at VHC-Yountville was closed. This closure simplifies the Ew-VHIS project as CDVA's RFP is now solely for a long-term care solution. This is a solution that is readily available in the marketplace and CDVA staff indicates that current estimates are that the state will have multiple bidders on the new RFP (bids were due March 15, 2009). CDVA staff indicates that it will take three months to scope and score the received bids and CDVA expects to issue an "intent to award" by the end of June 2010. At that time, SPR No. 2, which will revise the Ew-VHIS project scope and costs, will be submitted to the OCIO. Following the OCIO's review of SPR 2, a Control Section 11 letter will be submitted to the Joint Legislative Budget Committee to formally notify the Legislature of net expenditure or savings and provide a detailed business proposal for the Ew-VHIS project.

Staff Comment. Staff notes no issue with CDVA's need to implement the Ew-VHIS system, as it is a mission-critical system. Further, the fact that CDVA is now pursuing an implementation strategy of the most "vanilla" system possible (i.e., little to no customization) will better serve the long-term interests of the state. However, the timing of this request in the 2010-11 budget process does not synchronize well with the timing of the current procurement process. A concern could legitimately be raised that by approving this request now the Legislature is providing authority for a project whose costs are not clearly defined and will not be until June 2010 or later. For instance, given the "de-scoping" of the project, it is possible that bids will be lower versus prior cost estimates and the entire re-appropriation amount in this request would not be needed. However, it is also possible that bids will come in at the budgeted amount due to the fact that the prior project scope (acute <u>and</u> long-term care) was not accurately reflected in the cost estimates. Additionally, several years have passed since the prior RFP. Staff notes, however, that under any scenario, the CDVA needs the budget authority in 2010-11 and 2011-12 to complete the Ew-VHIS procurement. The Legislature has also approved this project in prior budget years. It is also worth noting that the "backstop" available here is the Control Section 11 letter process, which will allow the Legislature to be kept informed of the Ew-VHIS project going forward, including its scope and costs. Therefore, staff recommends approval of this request to keep this critical project on track.

Committee Questions. Based on the above comments, the Committee may wish the Administration and CDVA to provide responses to the following questions:

1. The March 15th bid window has closed. Can the Administration provide more information about the number of bids received? Are the bids from viable vendors?
2. Does the CDVA have any better assessment of whether the simplification in scope will be accompanied by a reduction in the total cost of the project?
3. Does CDVA still estimate an "intent to award" by June 2010?

Staff Recommendation: APPROVE

VOTE: APPROVED ON A 2-0 VOTE (SENATOR HARMAN ABSENT).

Issue 5 – Veterans Home of California Greater Los Angeles Ventura County (VHC-GLAVC) Activation Phase IV (BCP #1)

Governor's Budget Request. The Governor requests an augmentation of 102.3 positions and $8.3 million (GF) in 2010-11 and 103 positions and $13.2 million in 2011-12 related to the phase-in implementation of the VHC-GLAVC project to continue construction, activate business, and begin admitting veterans. The 102.3 positions in 2010-11 will be distributed as follows: 92 positions in VHC-GLAVC and 10.3 positions in CDVA Headquarters (HQ) to address workload associated with the VHC-GLAVC facilities.

2009-10 Budget. Suspended opening of Adult Day Health Care services at the VHC-GLAVC veterans' homes and scored $1.8 million (GF) savings. Reduced the Governor's request for $18.5 (GF) and 181.6 positions for VHS-GLAVC Activation Phase III by $5 million (GF) in recognition of an approximately three-month delay in construction and associated delays in hiring for various levels of care at the homes.

Background. The VHC-GLAVC consists of Veterans Homes in Lancaster (VHC-Lancaster), Ventura (VHC-Ventura), and West Los Angeles (VHC-WLA). This request continues the phase-in implementation of the VHC-GLAVC project initially approved in 2007-08.

Home	Construction Complete	Level of Care	Licensed Beds	Opening Date
VHC-Ventura	Sept. 2009	RCFE	60	Jan. 2010
VHC-Lancaster	Sept. 2009	RCFE	60	Jan. 2010
VHC-West Los Angeles	May 2010	RCFE Skilled Nursing Memory Care SNF	84 252 60	Sept. 2010 2011-2012 2012-2013

The hiring and occupancy timelines have been updated to reflect a change in the Residential Care Facility for the Elderly (RCFE) admissions schedule in VHC-Lancaster and VHC-Ventura from three residents per month to eight residents per month; an indefinite delay in opening the Adult Day Health Care (ADHC) program; and a delay in opening the skilled nursing facility (SNF) in VHC-WLA from June 2010 to fiscal year 2011-12. The proposal also includes a reduction in personnel years specific to VHC-Lancaster and VHC-Ventura to reflect contracts for food services. The costs will be partially offset by estimated revenues of $3.4 million in federal per diem and fees for 2010-11.

Staff Comment. Staff agrees with the need to adequately and appropriately staff the VHC-GLAVC facilities. While CDVA staff presented that hiring and occupancy timeframes have been updated to reflect admission schedules and level-of-care offerings, it is not clear that all of the positions authorized in this request will be hired per the updated schedules which could create some GF "savings" that would revert at the end of the 2010-11 year. Given the condition of the GF fund, this may not be the wisest expenditure of scarce GF dollars and a better approach might be to hold this item open until May Revise, at which time a clearer picture would present as to the status of admissions at each of the VHC-GLAVC facilities and whether any savings are possible in 2010-11 similar to that scored in 2009-10.

In addition, staff notes that 10.3 of the positions in this request are for CDVA HQ, including one Information Officer III position in Legislative and Public Affairs. Since 2006-07, CDVA HQ has increased by 87.9 positions, from 267.8 positions to 355.7 positions. Of the 87.9 positions, 59.5 of those positions were in the Veterans Homes Division and 35.4 positions were in Distributed Administration (during the same period, 27 positions were eliminated in the Farm and Home program and 20 were established in the Veterans Services Program, netting to 87.9). Roughly one-third of the Veterans Home Division positions were related to the Ew-VHIS program which is discussed on page 14 of this agenda.

Committee Questions. Based on the above comments, the Committee may wish the Administration and CDVA to provide responses to the following questions:

1. Both VHC-Ventura County and VHC-Lancaster opened in January 2010. What is the current number of residents at each home?
2. Is construction of VHC-WLA on schedule to be completed by May 2010? When will resident admissions begin?
3. This request reflects a ratio of roughly one HQ position for every nine posiitons at the VHC-GLAVC facilities. Is this ratio similar to the experience when other veterans homes completed construction and began patient admissions?

Staff Recommendation: HOLD OPEN pending receipt of additional information from the Administration and Legislative Analyst's Office to determine if VHC-GLAVC staffing resources will be fully expended as scheduled in 2010-11 and if the staffing resources at CDVA HQ are justified.

Issue 6 – Veterans Home of California Redding (VHC-Redding) and Veterans Home of California Fresno (VHC-Fresno) – Construction Completion and Pre-Activation Phase II (BCPs #2 and #3, respectively)

The Governor requests the following:

	VHC-Redding	VHC-Fresno
2010-11 Budget: Construction Completion & Pre-Activation Phase II	9.3 positions* $1.3 million (GF)	8.5 positions** $1 million (GF)
2011-12 Budget: Construction Completion & Pre-Activation Phase II	19 positions $2.4 million (GF)	16 positions $2 million (GF)
Level of Care/Bed Capacity	RCFE/90 SNF/60	RCFE/180 SNF/120
Construction Complete	January 2012	March 2012
Resident Admission	February 2012	April 2012

*The 9.3 positions will be distributed as follows: 6.5 positions in VHC-Redding and 2.8 positions in CDVA HQ to address workload with VHC-Redding facility.
**The 8.5 positions will be distributed as follows: 4.5 positions in VHC-Fresno and 4 positions in CDVA HQ to address workload with the VHC-Fresno facility.

Background. The CDVA indicates that the positions in both of these requests are dedicated to the construction phase and intended to ensure that all aspects of the construction and business operations at both VHC-Redding and VHC-Fresno are compliant with federal, state, and local laws and regulations prior to opening. Additionally, because both of these homes are located nearly 200 miles away from HQ and longer distances from the existing homes in southern California, travel is included in these requests (including five motor vehicles for each home at a total cost of $184,000 GF) for those holding administrative positions in HQ and in Redding or in Fresno. In addition, temporary space will be needed until construction of both VHC-Redding and VHC-Fresno is completed in January 2012 and March 2012, respectively. For both of these requests, the CDVA has phased-in the staffing, with positions added at various points in the fiscal year as workload warrants.

Staff Comment. Staff generally agrees with the need to provide adequate staffing to CDVA to ensure that all aspects of the construction and business operations at both VHC-Redding and VHC-Fresno are compliant with all laws and regulations. The CDVA indicates that in the ramp up to construction of the VHC-Barstow, VHC-Chula Vista, and VHC-GLAVC facilities a similar ratio of staffing, between staff stationed in the field versus at CDVA HQ, was utilized. It is not clear however how these existing HQ staff, which were added as the VHC-GLAVC facilities were in various stages of development and construction, are now being utilized. For instance, can the HQ staff assigned to construction-related activities at VHC-

GLAVC, where construction is now largely complete, be re-purposed to those same activities for the VHC-Redding and VHC-Fresno homes? Additionally, staff notes the ten motor vehicles included in these requests and questions how they can be purchased given the Governor's July 2009 Executive Order (EO) which requires CDVA to reduce its vehicle fleet by 15 percent and prohibits leasing or purchasing any new vehicles for non-emergency use unless the purchase is necessary for fire/life/safety, funded with federal dollars, or will result in significant savings.

Committee Questions. Based on the above comments, the Committee may wish the Administration and CDVA to provide responses to the following questions:

1. What are the current responsibilities for HQ staff that were originally assigned to construction-related activities at VHC-GLAVC where construction is now largely complete? Can these staff be re-purposed to those same activities for the VHC-Redding and VHC-Fresno homes?
2. Will CDVA request an exemption from the Executive Order to purchase the ten vehicles in these requests?

Staff Recommendation: HOLD OPEN pending receipt of additional information from the Administration and Legislative Analyst's Office to determine if staffing resources contained in these requests, particularly those at CDVA HQ, are fully justified.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, April 15, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

Item Number and Title **Page**

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Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	Judicial Branch (0250)			
1	CFTF Appropriation Adjustment	$19,210,000	Court Facilities Trust Fund	Approve
2	Third Appellate District Court Temporary Space	-$1,951,000	General Fund	Approve
3	CFTF Appropriation Adjustment – AFL	$11,771,000	Court Facilities Trust Fund	Approve
	California Gambling Control Commission (0855)			
1	Gambling Control Act – Cardroom Regulation	$37,000	Gambling Control Fund	Approve
	California Department of Corrections and Rehabilitation (5225)			
1	CITIP Reappropriation	$1,735,000	General Fund	Approve
	Commission on Peace Officer Standards and Training (8120)			
1	Grant Reimbursements Increase	$700,000	Peace Officers' Training Fund	Approve

Vote Only Items – Issue Descriptions

Judicial Branch (0250)

Issue 1 – CFTF Appropriation Adjustment

The Judicial Branch requests an increase in appropriation authority of $19.2 million in the Court Facilities Trust Fund (CFTF), including $10.1 million in reimbursements authority, for the ongoing operations and maintenance of court facilities transferred to state responsibility in accordance with the Trial Court Facilities Act (Chapter 1082, Statutes of 2002), and to reimburse the Administrative Office of the Courts (AOC) from Trial Court Operations for expenditures made on behalf of the courts for court leases assigned to the AOC. There is no General Fund impact of this proposal.

Issue 2 – CFTF Appropriation Adjustment – April Finance Letter

The Judicial Branch requests an increase in appropriation authority of $11.8 million in Court Facilities Trust Fund (CFTF), including $5.6 million in reimbursements authority, for the ongoing operations and maintenance of court facilities transferred to state responsibility in accordance with the Trial Court Facilities Act (Chapter 1082, Statutes of 2002), and to reimburse the (AOC) from Trial Court Operations for expenditures made on behalf of the courts for court leases assigned to the AOC. There is no General Fund impact of this proposal.

Issue 3 – Third Appellate District Court – Temporary Space

The Judicial Branch proposes a General Fund reduction of $1.95 million in 2010-11. The Third Appellate District Court relocated to rented space in 2008-09 in preparation for the planned renovation of the State Library and Courts Building. The original funding request assumed that the renovations would be concluded in 2010-11 and included additional funding for tenant improvement and moving-related costs. However, the renovations to the Library and Courts Building were delayed due to the Pooled Money Investment Board's decision to suspend disbursements for lease revenue bond funded projects, and the renovations are now expected to be completed in July 2012. Consequently, some of the costs originally estimated for this year have been postponed resulting in the $1.95 million General Fund savings in 2010-11.

California Gambling Control Commission (0855)

Issue 1 – Gambling Control Act – Cardroom Regulation

The Commission requests $37,000 in the Gambling Control Fund and 0.5 personnel years to address new workload associated with the development of new regulations as required by AB 293, Chapter 233, Statutes of 2009. Key provisions of the bill are to (a) officially recognize limited liability companies in the Gambling Control Act, (b) require the Commission to develop licensing regulations to allow continuous operation of a cardroom under certain circumstances such as death or insolvency, (c) clarify that the Commission can take disciplinary action against an individual owner without affecting the licenses of other endorsed owners, (d) add a definition of “gambling enterprise”, (e) amend the definition of a “license”, and (f) permit individuals under the age of 21 to use a designated pathway to pass trough the gaming floor if accompanied by, or in the presence of, an individual over age 21. The AB 293 further requires the Commission to adopt regulation by December 31, 2011 to provide for the licensing for receivers, trustees, or beneficiaries for a cardroom owner in the case of death, insolvency, foreclosure or other incapacity of a licensee.

California Department of Corrections and Rehabilitation (5225)

<u>Issue 1 – CITIP Reappropriation</u>
The administration proposes to reappropriate $1.7 million General Fund from the 2009 Budget Act for the Consolidated Information Technology and Infrastructure Program (CITIP). The CITIP project was originally funded in the 2007-08 Budget Act and includes the installation and upgrade of IT infrastructure – the Wide Area Network (WAN) and Local Area Network (LAN) – at CDCR prisons and juvenile facilities. This infrastructure is necessary to support system-wide use of other IT projects currently under development and deployment, including the Strategic Offender Management System (SOMS) and the Business Information System (BIS). Due to budgetary restrictions on travel and overtime, installation of CITIP at some juvenile facilities will not be completed in the current year as previously planned. The department currently estimates that the project will be completed in September 2010.

Commission on Peace Officer Standards and Training (8120)

<u>Issue 1 – Grant Reimbursement Increase</u>
The Commission on Peace Officer Standards and Training (POST) receives various grants, including from the California Environmental Protection Agency, Homeland Security, and the Violence Against Women Act. The department has historically had expenditure authority for $1.2 million for these programs, but it now projects additional grant awards totaling $1.9 million. Based on the increase in grant awards, the administration requests an increase in authority of $700,000 for purpose of expending these grant awards. The administration also requests a technical change to separate the budget item for grant reimbursement authority from the general support item.

California Horse Racing Board (8550)

Departmental Overview and Mission. The California Horse Racing Board (CHRB) was established in 1933 in a constitutional amendment approved by state voters. The amendment provided additional safeguards in the law and gave the jurisdiction and supervision over all racing activities in the state to the Board. The purpose of the California Horse Racing Board (CHRB) is to regulate pari-mutuel wagering for the protection of the betting public, to promote horse racing and breeding industries, and to maximize the State of California tax revenues. Principal activities of CHRB include supervising all race meetings in the state where pari-mutuel wagering is conducted, protecting the betting public, licensing of racing associations, sanctioning of rule violators, enforcing laws, rules, and regulations pertaining to horse racing, and collecting the state's share of revenues derived from horse racing meets.

Budget Overview. The Governor's Budget provides $11.7 million for the CHRB funded from the Horse Racing Fund which was established as part of the 2009-10 Budget Act.

Issue 1 – SB 766 and SB 517 Audit Responsibilities

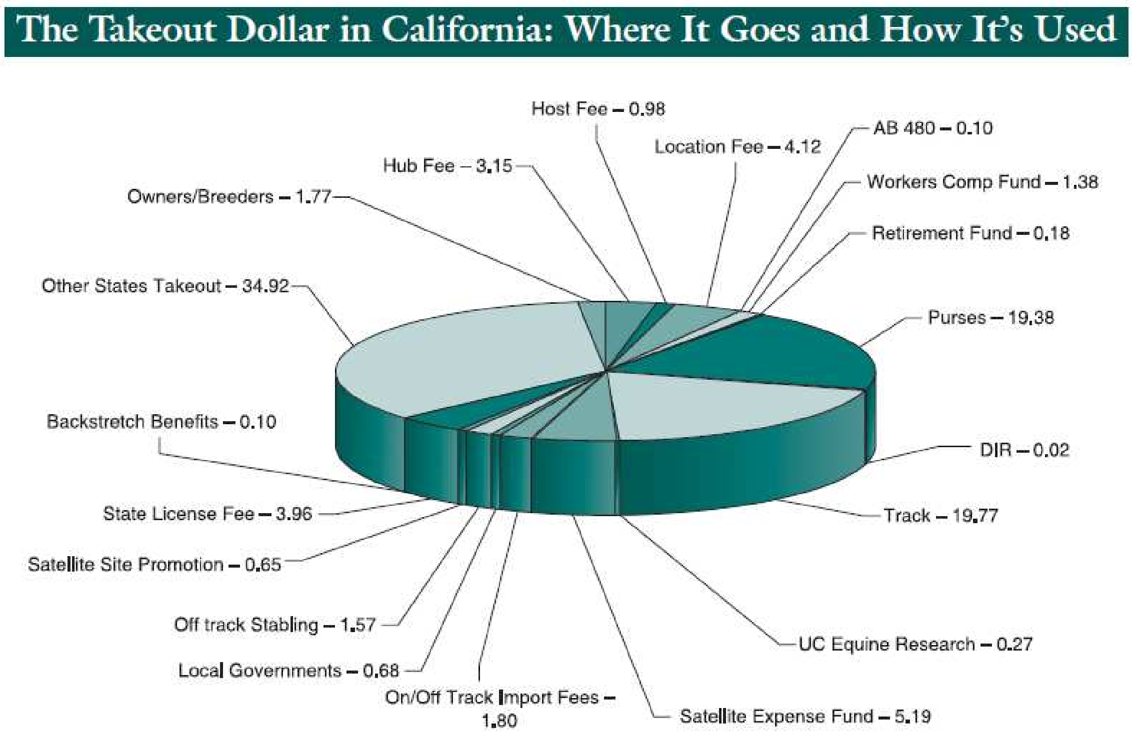
Background. In 2009, the Legislature enacted two bills into law relating to the CHRB. Both bills, SB 766 (Negrete McLeod) and SB 517 (Florez), provide more flexibility for the horse racing industry related to the "take out" (the share of dollars bet use for purposes other than to pay winning bets). Both bills further require that the changes authorized must be approved by the CHRB. Specifically, SB 766 permits uncommitted surplus funds in specified accounts to be reallocated to other funds or accounts. SB 517 authorizes changes in the amount and distribution of the take out at races upon a filing with and approval by the Board.

Governor's Budget Request. The CHRB requests $148,000 from the Horse Racing Fund, and two positions to address additional auditing workload anticipated from SB 766 and SB 517.

	2010-11
Horse Racing Fund	$148,000
PY's	2.0

Staff Comments. It appears clear that the new laws will provide some additional workload for the Board (though it is notable that bill analyses prepared at the time the Legislature was considering the bills did not identify significant new costs). For example, earlier audits and reviews found that two funds, the Workers Compensation Fund (2006) and the Marketing Promotion Fund (2008), totaled over $5 million in surplus funds. So, for example, requests to reallocate these funds, as permitted under SB 766, would require CHRB review and approval. Because these two laws are new, it is unclear exactly how many such requests will be made or exactly how many hours each audit will require. The CHRB has provided committee staff with estimates that SB 766 will result in two to three requests annually with each resulting audit requiring the equivalent of about four months (for a single auditor). The CHRB estimates that SB 512 will result in two requests annually, each requiring two to three months of workload, as well as additional workload related to development of review criteria, ongoing analysis of the effects on the wagering pools, and post verifications and reporting.

The figure below shows the distribution of the take out for 2008-09.



From the 2008-09 CHRB Annual Report, page 63. www.chrb.ca.gov

The additional positions would be funded from the Horse Racing Fund, newly established in the 2009-10 Budget Act. The enabling Trailer Bill Language also changed the collection of revenues for support of the Board in the new fund. The Governor's budget projects a fund balance of $2.6 million at the end of the budget year based on projected revenues of about $12.8 million in both the current year and budget year. Even with the proposed increased staffing levels under this proposal, the fund is projected to take in about $1 million more than it would expend in the budget year.

In reviewing this proposal, the committee may wish to address the following questions to the Board.

- What, specifically, will your auditors be looking for in their reviews that will inform the Board whether it should approve the requests authorized by these bills?
- What are your current auditing staff levels and responsibilities?
- To date, are revenues in the Horse Racing Fund on track with the projections included in the Governor's Budget?

Staff Recommendation. Approve as budgeted.

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.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

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 five 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 2010-11 General Fund budget for CDCR is $8.5 billion, primarily for adult prison operations. This total is a decrease compared to estimated expenditures in the current year, primarily because of proposals to reduce spending on inmate health care, make certain felony offenses punishable by local jail instead of prison, and the continued implementation of legislative reforms enacted in the 2009-10 budget. Overall, the Governor's proposed budget provides about 11 percent of General Fund resources to CDCR.

Issue 1 – Reentry Court Diversion Program – April Finance Letter

Background. Courts in most, if not all, counties in California operate at least one drug court. In 2008, there were a total 203 drug courts operating in California. Drug courts are designed to combine substance abuse treatment, regular court supervision and intervention, and a collaborative approach among stakeholders, including the courts, probation, public defenders, district attorneys, and treatment providers. Typically, criminal offenders are placed in drug courts in lieu of sentences to jail or prison.

Nationally, research consistently demonstrates that drug courts can be effective at reducing recidivism, as well as taxpayer costs, particularly for corrections. For example, a 2006 review of the literature by the Washington State Institute for Public Policy identified 57 studies of drug courts that, on average, found an 8 percent decrease in recidivism in adult drug courts which yielded an estimated $4,700 in net savings per participant to taxpayers and victims of crime. Similarly, a review of drug courts in California by the Department of Alcohol and Drug Programs (DADP) found that in 2007-08 those drug courts funded by DADP reduced prison incarceration costs by $69.3 million, yielding net savings of $45.5 million that year.

Governor's Budget Request. The administration proposes a net reduction of $483,000 General Fund in 2010-11, growing to $500,000 in savings in 2011-12, from establishing a pilot drug court program in San Diego County for parole violators convicted of new crimes.

The net savings amount identified assumes total savings of $2.3 million from a reduction in the prison population of 100 inmates, offset by program costs of $1.8 million. These program costs include $1.5 million to reimburse San Diego County for program costs associated with substance abuse treatment ($1.1 million), a mental health manager ($135,000), a probation officer ($147,000), and administrative overhead and sustainability funds ($180,000). The county will provide the equivalent of $762,000 in in-kind contributions to the program, including staff resources from the district attorney, public defender, probation, and sheriff, as well as costs associated with data tracking, jail costs, life skills training, and transportation costs.

The department also requests three positions ($297,000) to manage and oversee the program for the state, as well as $20,000 in one-time costs in 2010-11 to fund 400 hours of overtime to do case file reviews of recently incarcerated inmates to determine if they would be eligible for the program.

	2010-11	2011-12
General Fund	-$483,000	-$500,000
PY's	2.7	2.7

LAO Recommendation. The LAO recommends that the Legislature approve the April Finance Letter to establish the reentry court pilot program, but assume an additional $226,000 in net savings. (This amount assumes additional savings of $462,000 to account for the fact that the proposal is over budgeted, which is partially offset by $236,000 due to an estimated three-month implementation delay.)

The LAO's analysis indicates that the base funding for the proposal appears to be over budgeted by $462,000. Rather than provide $135,000 to support a Mental Health Manager, the LAO finds that the department could redirect one of its existing mental health staff positions to support the new program. The department is also requesting $147,000 to support a probation officer even though San Diego County has already agreed to fund such a position. In addition, the LAO finds that the department's request for $150,000 for "administrative overhead" for the county to monitor treatment contracts is unjustified, given that CDCR is also requesting three new staff positions specifically to oversee and administer the pilot program who could perform this function. It is also unclear why the department is requesting $30,000 for "gate money" (which is given to inmates upon release from prison), since the purpose of the program is to divert parolees from entering prison.

In addition, the LAO recommends that the Legislature adopt supplemental report language requiring that the department report on the implementation of the pilot program, as well as on the program's outcomes and cost-effectiveness, to the Legislature. Specifically, the LAO recommends CDCR provide a progress report on the implementation of the program by January 10, 2011, and an evaluation report by January 10, 2012. Given that the program is proposed as a pilot, the LAO also recommends that the Legislature approve the three new CDCR staff positions on a two-year, limited-term basis.

Staff Comments. This proposal merits consideration. Drug courts have proven effective at reducing recidivism which benefits public safety. San Diego already operates several adult drug courts which suggests that the county should be a capable partner in operating this program. Further, the program would yield net savings to the state by diverting substance abusing parolees to effective treatment options rather than state prison, and these savings are greater because the program would target parolees facing new convictions rather than those facing administrative revocation which typically bring much shorter prison terms.

It is clear that there are offsetting costs to operate the program. However, in some cases it is less clear the rationale for some components of the total program costs. For example, it is unclear how the department identified a staffing need of three positions to manage and oversee this program, as well as a need for 400 overtime hours for case file review. The committee may wish to ask the department to justify its conclusion that this is the level of department resources required for this program. Further, it is not entirely clear why the county would be reimbursed for a probation officer or mental health manager when the program participants will remain on an active parole caseload and able to access mental health treatment through Parole Outpatient Clinics.

The department's proposal notes that it intends to evaluate the outcomes of this program and potentially partner with other counties to provide similar programs. These are worthy objectives, though it is notable that this proposal does not include a specific requirement that the department report to the Legislature on its implementation or outcomes of the program. However, the department has informed staff that it is open to such reporting requirements.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- How did the department determine that three positions were needed in headquarters for program management and oversight, particularly considering that the program itself will be managed by the drug court and county?
- How did the department determine a need for 400 hours of overtime (one-time) related to case file reviews?
- What are the proposed responsibilities of the probation officer and mental health manager for which the state would reimburse the county?

- Should this proposal be adopted on a limited term basis in order to determine the effectiveness of the program before making it a permanent part of the department's base funding?
- How will offenders be selected for participation in this program? What will be the selection criteria?
- How will successful program completion be determined?
- Is the administration receptive to adopting supplemental report language requiring a report the committee on the progress of implementation, as well as outcomes?
- How will the effectiveness of the program be tracked and analyzed? Based on the agreement between CDCR and San Diego, what will be the respective roles of each in data tracking and program evaluation?

Staff Recommendation. Hold open pending additional information regarding estimated staffing costs, as well as development of Supplemental Report Language requiring reporting of program implementation and outcomes. Staff believes that this proposal should be approved by the committee once these issues have been addressed. As stated above, the department's work with San Diego could provide a program that would both improve public safety and reduce state costs based on the findings of the national research.

Issue 2 – Health Care Access Units – April Finance Letter

Background. The Federal Court placed CDCR's prison health care services under receivership in February 2006. The Receivership has established at each prison health care access units (HCAU) which provide custody staff dedicated to escorting inmates to and from medical appointments within the institutions, as well as for providing transportation and guarding of inmates to specialty care providers in the community. Funding for HCAUs totals $241 million for 2,407 positions.

Receiver's Budget Request. The Receiver has submitted a budget proposal that would change existing budget bill language in order to transfer budget authority for HCAUs from the Receivership to CDCR. The funding for HCAUs would remain within health care budget item (002) but would be controlled by the department rather than the Receiver. The Receiver proposes this change because he plans to begin transferring responsibility for day to day management of HCAUs back to the state during the budget year, consistent with the timeframe identified in the *Thirteenth Tri-Annual Report of the Federal Receiver's Turnaround Plan of Action* (January 2010).

	2010-11
General Fund	$0
PY's	0

Staff Comments. The Receiver's office states that this proposal reflects the first step towards returning control of prison medical services back to the state, and the HCAU program was identified as the first aspect of that program ready for transfer to the state based on improvements made at many institutions. The Receiver's office reports that it intends to authorize return control of day to day HCAU operations to the state on an institution by institution basis based on the readiness at each location, and the transfer of HCAUs at all institutions should be completed by July 2011.

Staff believes that this proposal does reflect a positive first step towards returning control of medical services to the state and, in the longer term, a small but important step towards a conclusion of the Receivership. In reviewing this proposal, the committee may wish to address the following questions to the Receivership and department.

- What criteria or metrics will the Receivership use to determine whether an individual institution is ready for operational control of HCAUs?
- How will the Receiver and department monitor the ongoing performance of institutions to provide access to care after each transfer to ensure that prisons do not "backslide"?
- Does the Receiver's office anticipate that any other areas of health care operations may be ready for return to state control during the budget year or the subsequent year?

Staff Recommendation. Approve as budgeted.

Issue 3 – Headquarters Staffing – Informational Item

Background. As described above, the Legislature approved the reorganization and consolidation of various departments into the California Department of Corrections and Rehabilitation in 2005. One of the rationales for this reorganization was that it would provide increased efficiency, for example through the centralization of policy and administrative functions.

On April 6th, Senator DeSaulnier, as Chair of this Subcommittee, sent a letter to Secretary Cate requesting information on the number of staff and total funding provided for CDCR headquarters this year, as well as for the comparable resources provided for headquarters prior to 2005 in those departments, boards, and agencies that were consolidated. The Senator's request further requested explanations for any significant changes in staffing or funding levels.

Staff Comments. At the time this agenda was prepared, the department had not yet completed its analysis in response to the Chair's request for information. However, the department reports that it should have the requested information compiled for presentation to the committee at the time of this hearing. The committee should ask the department to present during the hearing on the changes to total headquarters staffing and funding. In particular, the committee may want to ask the department to explain what factors account for any significant staffing and funding changes.

Issue 4 – AB 900 General Fund Appropriation – Capital Outlay

Background. The Public Safety and Offender Rehabilitation Act of 2007 (AB 900, Chapter 7, Statutes of 2007) authorized a total of $7.7 billion for construction projects, including prison infill beds, inmate health care treatment space and housing, reentry facilities, county jail beds, and prison infrastructure improvements. Most of this funding is designated for lease-revenue projects. The total includes a $300 million General Fund appropriation to address prison infrastructure projects at existing prisons, for example to address sewage, water, electrical, or other problems.

In recent years, the Legislature has approved the use of the General Fund appropriation designated for infrastructure improvements for other prison construction-related purposes.

For example, the 2009-10 Budget Act includes language to allow this appropriation to offset the cost $20 million in approved General Fund capital outlay projects.

The department reports that roughly $200 million of the original $300 million appropriation remains unspent to date.

Governor's Budget and April Finance Letter Requests. The administration has two proposals designed to expand the use of the of the AB 900 General Fund appropriation for infrastructure projects. Each of these proposals is described below.

- ***Reentry Site Evaluations and Acquisition.*** The administration proposes Trailer Bill Language that would permit CDCR to use the AB 900 General Fund appropriation for infrastructure projects for site evaluations and property acquisition for reentry facility projects. Reentry facilities are intended to be small prison facilities that would provide intensive rehabilitation and reentry services for inmates in the months prior to release to the community. The department's budget request estimates costs of three to five million dollars annually.

  The AB 900 provided a total of $2.6 billion for the construction of prison reentry facilities. The state is not currently operating any reentry facilities, though the department plans to begin activation of Northern California Reentry Facility (formerly the Northern California Women's Facility) in Stockton in the budget year. The department also reports siting of a reentry facility at Paso Robles with a project submittal to the Legislature expected during the next several months. The department further reports being at various stages of site investigation, selection, and acquisition with seven other cities and counties (Kern, Madera, San Bernardino, San Diego, Solano, Folsom, and Los Angeles).

- ***Dental Modifications – April Finance Letter.*** The administration proposes Trailer Bill Language that would permit CDCR to use the AB 900 General Fund appropriation for infrastructure projects for design and construction of dental facility improvements at existing state prisons. The department estimates total project costs of about $14 million.

Staff Comments. Both of these proposals have some merit. According to the department, funding site evaluations for reentry facilities for the lease-revenue authority is difficult for these specific projects because while evaluations can be paid for from lease-revenue bonds, it is not always clear at the time of the evaluation whether the particular site being evaluated will ultimately be used for the reentry facility.

However, it is less clear why the administration would propose for acquisition to be paid for from the General Fund appropriation. Acquisition costs are typically part of the total project costs funded through lease-revenue bonds. Based on conversations with department staff, it appears that the intent of the administration is to use this funding to allow purchase options rather than actual property acquisition. The committee may want to have the administration clarify its intentions and confirm that the proposed Trailer Bill Language appropriately reflects this.

Using the General Fund appropriation for dental modifications may also be reasonable even though AB 900 has a separate lease-revenue authority for prison health care projects, including for dental facilities. The department reports that based on its review of existing dental facilities in prisons, most of the improvements will involve smaller scale projects focused on better utilizing and upgrading existing space rather than constructing new dental facilities. As such, the administration believes these projects are not well suited to funding from lease-revenue bonds.

While utilizing the General Fund appropriation for the proposed uses has merit, the primary trade-off is that doing so will deplete the appropriation, thereby reducing the funds available for infrastructure projects. However, the department reports that it does not currently have a list of priority projects for which it intends to use this appropriation. It is also noteworthy that the administration has not yet provided Legislature with its capital outlay Master Plan, as required by January under current law.

In reviewing these proposals, the committee may wish to address the following questions to the department.

- Why does the department not have a list of priority infrastructure improvement projects that it would fund using the AB 900 appropriation?
- What is the status of the department's capital outlay Master Plan, due in January?
- Is the department proposing to allow the AB 900 General Fund appropriation to be used for reentry facility property acquisition? Does the Trailer Bill Language need to be amended to properly reflect this.
- What reentry site evaluations have been or are scheduled to be completed using the $5 million appropriation in the current year?
- Should the Legislature consider using the AB 900 General Fund appropriation to offset costs associated with other General Fund capital outlay projects such as was done in the current year budget to reduce new General Fund costs?

Staff Recommendation. Approve proposed Trailer Bill Language with modifications, if necessary, to ensure that the language related to reentry facilities does not allow the AB 900 General Fund appropriation to be used for property acquisition.

Issue 5 – SAC EOP Treatment and Office Space – Capital Outlay

Background. The CDCR is mandated to provide adequate medical and mental health care to all inmates requiring such services. As part of court orders in the *Coleman v. Schwarzenegger* case, the state is required to mental health treatment in the prisons to constitutionally adequate levels. The Legislature has previously approved funding for preliminary plans and working drawings to build additional treatment and clinical office space for the provision of mental health treatment for seriously mentally ill inmates in the Enhanced Outpatient Program (EOP) housed at California State Prison, Sacramento (SAC).

Governor's Budget Request. The administration requests $12.4 million General Fund for the construction phase for this project. The administration plans for construction to begin September 2010 and be completed by September 2011.

	2010-11
General Fund	$12,445,000
PY's	0.0

LAO Recommendation. The LAO recommends that the Legislature fund this project with the AB 900 (Solorio – Chapter 7, Statutes of 2007) General Fund appropriation designated for infrastructure projects and thereby achieve $12.4 million in General Fund savings.

Staff Comments. This project is consistent with court orders designed to bring the state into constitutional compliance, and no objections have been raised regarding this specific proposal. However, given the state's current fiscal condition, it may be worth considering using the General Fund appropriation for infrastructure improvements in AB 900 (see Issue 4 of this agenda) to offset the proposed costs of this project, thereby providing General Fund relief of $12.4 million in 2010-11. The tradeoff of this approach, however, is that it would deplete that AB 900 appropriation by the same amount reducing the funding available for future infrastructure improvement projects.

In reviewing this proposal, the committee may wish to consider the following question.

- Should the Legislature consider using the AB 900 General Fund appropriation for infrastructure projects to offset costs associated with this project, similar to what was done in the 2009-10 Budget Act to reduce new General Fund costs?

Staff Recommendation. Approve the project and adopt the LAO recommendation to utilize the AB 900 General Fund appropriation to offset the costs of this project, achieving $12.4 million in General Fund savings. Adopt the budget bill language below to this affect. (The amount in the language should be adjusted, as necessary, to accurately reflect actual actions taken regarding this and other General Fund capital outlay proposals.)

5225-496-Reversion, Department of Corrections and Rehabilitation. As of June 30, 2010, the balances specified below of the appropriations provided in the following citations shall revert to the balance in the fund from which the appropriations were made:
0001-General Fund
(1) $23,883,000 from subdivision (a) of Section 28 of Chapter 7 of the Statutes of 2007

Issue 6 – Small Management Yards – Capital Outlay

Background. The CDCR currently manages Segregated Housing Units (SHU) and Psychiatric Services Units (PSU) to house inmates found to require higher custody housing separated from the general population based on serious in-prison rule violations, such as violence and gang participation. The PSU is specifically for such inmates with diagnosed mental disorders. Current department regulations require that inmates in these housing units be provided with a minimum of 10 hours out-of-cell time per week. This out-of-cell time is frequently provided in small management yards which are outdoor enclosures (150 sq. ft.) made of metal bars and designed to provide space for individual inmates to move around. In the *Coleman v. Schwarzenegger* case related to the unconstitutional quality of mental health care provided in state prisons, the federal court judge ordered the state to develop plans to build sufficient numbers of small management yards to meet current regulatory requirements regarding out-of-cell time.

Design and construction of small management yards has been a multi-year effort by the department. The 2009-10 budget included design funding for 100 small management yards.

Governor's Budget Request. The Governor requests $6.3 million General Fund for construction of 120 small management yards at California State Prison, Corcoran (COR) and the California Correctional Institution (CCI).

	2010-11
General Fund	$6,251,000
PY's	0.0

LAO Recommendation. The LAO recommends that the Legislature fund this project with the AB 900 (Solorio – Chapter 7, Statutes of 2007) General Fund appropriation designated for infrastructure projects and thereby achieve $6.3 million in General Fund savings.

Staff Comments. Operation of segregated housing units requires use of small management yards in order to ensure adequate out-of-cell time. It is worth noting that in the *2005-06 Analysis of the Governor's Budget* the Legislative Analyst's Office wrote about CDCR's use of SHU (and other forms of disciplinary confinement) and found that SHUs might be overutized to some degree because, for example, the department sometimes placed inmates that did not commit violent in-prison offenses in these units, as well as the fact that it uses SHUs for all confirmed prison gang members, not just violent members or the gang leadership. The LAO also noted that the department had not developed transition programs for inmates leaving SHUs going back to the general population or being released to the community. This could result in these inmates remaining at high risk to commit subsequent offenses either in prison or in the community.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- What percent of inmates currently housed in the SHUs and PSUs in COR, CCI, and statewide are getting at least 10 hours of out-of-cell time each week?
- What efforts, if any, has the department made to address the issues raised by the LAO regarding potential overuse of SHUs, as well as the lack of a transition program for inmates released from SHUs?
- Should the Legislature consider using the AB 900 General Fund appropriation for infrastructure projects to offset costs associated with this project, similar to what was done in the 2009-10 Budget Act to reduce new General Fund costs?

Staff Recommendation. Approve the project and adopt LAO recommendation to utilize the AB 900 General Fund appropriation to offset the costs of this project, achieving $6.3 million in General Fund savings.

Issue 7 – Statewide Budget Packages – Capital Outlay

Background. The department has received $2 million or $3 million in each of the past couple of years in order to perform advance planning and prepare budget packages for capital outlay projects to enable the department to provide information on the scope and costs of requested projects. This funding is typically used to hire an outside vendor to produce these analyses.

Governor's Budget Request. The administration requests $2 million General Fund to develop budget packages during the budget year.

	2010-11
General Fund	$2,000,000
PY's	0.0

LAO Recommendation. The LAO recommends that the Legislature fund this project with the AB 900 (Solorio – Chapter 7, Statutes of 2007) General Fund appropriation designated for infrastructure projects and thereby achieve $2 million in General Fund savings.

Staff Comments. When considering capital outlay project proposals, it is important that the Legislature receive well-developed scope and cost estimates from CDCR. This funding would be used for this purpose.

The department reports that it has expended $374,193 of the $2 million current year appropriation for development of ten major and minor budget packages (some of which are in front of the committee today). The department further reports that the remaining current year appropriation will be used to develop ten additional major capital outlay budget packages for consideration in next year's budget cycle.

Staff has recently requested that the department provide information for the committee regarding the current staffing levels in its Facility Planning, Construction, and Management Division. The 2007-08 Budget Act provided this division with an additional 111 positions for purpose of planning and implementing AB 900 construction projects. Given the level of additional resources provided, coupled with the lack of AB 900 construction currently underway, it may be worth considering whether some of these resources could be redirected to developing budget packages.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- What are the current staffing and funding levels in the departments Facility Planning, Construction, and Management Division? Could any of these existing resources be used for these staffing packages?

- Should the Legislature consider using the AB 900 General Fund appropriation for infrastructure projects to offset costs associated with this project, similar to what was done in the 2009-10 Budget Act to reduce new General Fund costs?

Staff Recommendation. Hold open pending provision of information regarding current staffing and funding levels for CDCR's Facility Planning, Construction, and Management Division.

Issue 8 – Minor Capital Outlay Projects – Capital Outlay

Background. Current law defines minor capital outlay projects as those costing no more than $400,000. The state makes a distinction between major and minor capital outlay projects in order to give departments more flexibility in the case of minor projects. Unlike major capital outlay projects, minor projects typically do not have to be individually approved by the Legislature (only the total appropriation for minor projects), and minor capital projects do not have to go before the Public Works Board.

Governor's Budget Request. The Governor requests $3.2 million General Fund for seven minor capital outlay projects. The administration also proposes Budget Bill Language that would increase the maximum cost of minor capital outlay costs in CDCR from $400,000 to $750,000. It should also be noted that the administration has proposed Trailer Bill Language for a statewide increase in the minor capital outlay threshold to $800,000.

	2010-11
General Fund	$3,187,000
PY's	0.0

The department reports that each of the proposed minor capital outlay proposals is related to an existing court case affecting some area of operations, including inmate mental health and juvenile facilities. Each of the seven projects is listed in the table below.

Project	Site	Cost
Mental health space conversion	Cal. Men's Colony	$404,000
Level II fence improvements	Cal. Men's Colony	$682,000
Kitchen conversion to mental health space	Pelican Bay State Prison	$565,000
Evaporative coolers in dayrooms	OH Close Youth Facility	$354,000
Medical exam room and office – El Mirasol Living Unit	Ventura Youth Facility	$392,000
Medical exam room and office – Monte Vista Living Unit	Ventura Youth Facility	$392,000
Medical exam room and office – Special Program Counseling Bldg.	Ventura Youth Facility	$398,000

LAO Recommendation. The LAO recommends that the Legislature fund these projects with the AB 900 (Solorio – Chapter 7, Statutes of 2007) General Fund appropriation designated for infrastructure projects, thereby achieving $3.2 million in General Fund savings.

Staff Comments. In reviewing this proposal, the committee may wish to address the following questions to the department.

- Why is the administration seeking to increase the threshold distinguishing major and minor capital outlay projects in CDCR from $400,000 to $750,000? When was this threshold last increased?
- Should the Legislature consider using the AB 900 General Fund appropriation for infrastructure projects to offset costs associated with these projects, similar to what was done in the 2009-10 Budget Act to reduce new General Fund costs?

Staff Recommendation. Hold open. Staff raises no objection to the individual projects identified by the department. However, it may make sense to wait to see whether the Legislature approves the proposed Trailer Bill Language to raise the minor capital outlay threshold to $800,000. To date, no reason has been given to have a different threshold – either higher or lower – for CDCR as for the rest of the state.

Issue 9 – DVI RC EOP Treatment and Office Space – Capital Outlay

Background. The Deuel Vocational Institute (DVI) became a reception center in 2004. The *Coleman* court has ordered that CDCR provide adequate mental health treatment to inmates in reception centers who have been identified as requiring an enhanced outpatient program (EOP) level of care and who remain in reception centers for longer than two months. Court orders also require the department to meet specified timelines regarding mental health screenings and evaluations of inmates sent to reception centers.

Governor's Budget Request. The department requests $319,000 from the 1988 Prison Construction Fund to complete the preliminary plan phase for a new project involving the conversion of 10,000 square feet of existing space at the Deuel Vocational Institute to treatment and clinical office space for the treatment of seriously mentally ill offenders. The working drawings and construction phases are proposed to be funded out of the General Fund in subsequent years, though the department would still need to come before the Legislature to get that funding approved. The total project cost is estimated to be $5.7 million.

	2010-11
1988 Prison Construction Fund	$319,000
PY's	0.0

Staff Comments. Because DVI was not originally designed with a reception center or mental health mission, and the fact that it is operating over design capacity, additional program space is likely warranted in order to meet the institution's current missions. While the budget year proposes a special fund source for the first phase of this project, it is important to note that most of the project costs are proposed to be born by the General Fund in out years. In reviewing this proposal, the committee may wish to address the following question to the department.

- To what degree is DVI currently meeting the timeframes outlined by court for mental health screenings and assessments?

Staff Recommendation. Approve as budgeted.

Judicial Branch (0250)

Departmental Overview. The California Constitution vests the state's judicial power in the Supreme Court, the Court of Appeals, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state supported. *Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)*, shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts. The 2005-06 Budget Act merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Overview. The Governor's budget provides a total of $3.76 billion (includes $350 million from the proposed Regional Development Agencies [RDA] shift) in 2010-11. This reflects about a one percent increase over the estimated spending levels for the current year which is $3.71 billion (including $1.52 billion from the proposed RDA shift). Historically, the General Fund has provided somewhat more than half of the total funding for the Judicial Branch.

The Branch is authorized for 2,032 state positions (PYs), primarily for the Courts of Appeal and Judicial Council. This figure does not include trial court employees throughout the state.

The Judicial Branch's budget was cut by $393 million in 2009-10. These budget reductions were offset through a number of actions including, court closures, use of trial court reserves and special fund balances, fee increases, and the absorption of SAL. The AOC reports that it anticipates achieving $332 million of these budget solutions this year.

The Governor's 2010-11 proposed budget includes the following major adjustments to the Judicial Branch budget:

- A reduction in 2009-10 of $1.5 billion to account for local reimbursements related to the Governor's proposed RDA shift pursuant to Control Section 15.45. In 2010-11, local reimbursements are estimated to be $350 million. This proposal does not affect the total expenditure authority of the Judicial Branch;

- A General Fund reduction in 2010-11 of $296.9 million to reflect new revenue from the Automated Speed Enforcement proposal. This proposal also includes a $41 million augmentation for trial court security;

- A General Fund augmentation in 2010-11 of $100 million to restore the trigger reduction included in the 2009 Budget Act. However, this funding is also included in the Governor’s 2010-11 trigger proposal tied to the receipt of additional Federal funds statewide; and

- A General Fund augmentation of $17.9 million in 2010-11 to fund trial court employee retirement costs and employee and retiree health benefit costs.

Issue 1 – Limited Term Increase in Facility Modification Funding

Background. The Judicial Branch has current-year authority to expend $45 million on facility repairs and modifications from two construction funds, the State Court Facilities Construction Fund (SCFCF) and the Immediate and Critical Needs Account (ICNA). Under a proposal approved last year, this amount will grow to $60 million in 2010-11 due to an additional $15 million from the ICNA.

Governor’s Budget Request. The Judicial Branch requests increased expenditure authority of an additional $35 million, including $5 million in reimbursements, in the State Court Facilities Construction Fund for purpose of completing repairs and modifications at various court houses and facilities. This increase is proposed for three years.

	2010-11
State Court Facilities Construction Fund	$35,000,000
PY’s	0.0

Staff Comments. This proposal, plus the already approved increase in ICNA expenditures, would bring total expenditures on facility repairs and modifications from $45 million in the current year to $95 million in 2010-11. In reviewing this proposal, the committee may wish to address the following questions to the Judicial Branch.

- What types of projects will be completed with this funding, and how will they be prioritized?
- How did the Judicial Branch determine that it needed to increase its funding for facility repairs and modifications from $45 million to $95 million?
- How will this proposal affect the long term projected fund balance of the SCFCF?

Staff Recommendation. Hold open.

Issue 2 – Court House Construction Projects

Background. Two construction funds – the State Courts Facility Construction Fund (SCFCF) and the Immediate and Critical Needs Account (ICNA) – are established under current law for the purpose of constructing additional courthouses throughout the state. The revenue from these funds comes primarily from increased fines and court fees.

Governor's Budget and April Finance Letter Requests. The Governor's budget includes funding for construction (C) of 13 new courthouses in the state. These projects are lease-revenue bond funded projects with lease-revenue payments coming from either the SCFCF or the ICNA. The table below identifies information about each of these 13 projects. Each of these projects is estimated to be completed in 2012 or 2013.

Construction Funding Requests

	Project	Sq. Ft. / No. Courtrooms	Phase	Fund Source	Construction Amount	Total Project Cost
1	New Madera courthouse	99,879 / 10	C	SCFCF	$88,248,000	$100,208,000
2	New San Bernardino courthouse	356,390 / 35	C	SCFCF	$304,682,000	$339,822,000
3	New Stockton courthouse	282,763 / 30	C	SCFCF	$243,266,000	$272,939,000
4	New Riverside courthouse	60,725 / 6	C	SCFCF	$54,546,000	$63,261,000
5	New Porterville courthouse	90,000 / 9	C	SCFCF	$81,055,000	$93,364,000
6	New Hollister courthouse	42,870 / 3	C	SCFCF	$33,508,000	$37,378,000
7	New San Andreas courthouse	39,878 / 4	C	SCFCF	$40,429,000	$45,364,000
8	Renovations to Old Solano courthouse	29,900 / 3	W, C	ICNA	$23,679,000	$25,418,000
9	New East County (Alameda) courthouse	148,031 / 13	C	ICNA	$50,000,000	$137,412,000

The administration submitted April Finance Letters requesting reappropriation authority for acquisition (A) and/or working drawings (W) phases for four of the above projects. These reappropriations are listed below.

Reappropriation Requests

	Project	Sq. Ft. / No. Courtrooms	Phase	Fund Source	Reappropriation Amount	Total Project Cost
1	New Madera courthouse	99,879 / 10	A, W	SCFCF	$4,934,000	$100,208,000
2	New Stockton courthouse	282,763 / 30	A, W	SCFCF	$15,526,000	$272,939,000
3	New Riverside courthouse	60,725 / 6	W	SCFCF	$3,101,000	$63,261,000
4	New Porterville courthouse	90,000 / 9	A, W	SCFCF	$4,688,000	$93,364,000

Staff Comments. Earlier phases of each of these projects have all been approved by the Legislature in past years in recognition of the benefits of constructing new courthouses to address capacity, programmatic, and facility safety issues. The AOC reports that delays in land acquisition has driven the need for the four reappropriation requests. However, the AOC further reports that it is still on track to need construction funding authority in the budget year despite these delays.

In reviewing this proposal, the committee may wish to address the following questions to the Judicial Branch.

- What issues caused the acquisition delays resulting in the reappropriation requests for four projects? What is the current status of site acquisition?
- What is the long-term projected fund balance for the two court construction funds, the SCFCF and ICNA?

Staff Recommendation. Approve budget and April Finance Letters as proposed.

Issue 3 – AOC Trailer Bill Proposals

AOC Trailer Bill Requests. In recent weeks, the AOC has requested that the budget committee consider four trailer bill proposals. These proposals were not submitted by the administration. These proposals are each described below.

- ***Collections.*** Penal Code Section 1463.010 states that the AOC and the California State Association of Counties (CSAC) are jointly committed to improving the collection of court-ordered debt. The AOC and CSAC are currently developing a package of proposals to achieve this objective. While the specific proposals have not been finalized, staff has been informed that it could include aspects such as incentivizing more effective collection practices, implementing an amnesty program for past debt, clarifying authority related to discharge of outstanding debt, extending the State Controller's Office unclaimed property program to allow for the offset payments against outstanding court-ordered debt, and extending the period that certain debts can be collected to beyond the current ten-year time allowed now. Taken together, the AOC and CSAC believe that these proposals could improve collections and enhance revenue recovery, provide a more accurate profile of collectible debt, expand the tools and strategies available to courts and counties, and result in greater compliance with court orders statewide.

- ***Parking Penalties: Audit Provision.*** Prior to 2008, Government Code Section 70372(b) required an additional penalty of $1.50 on parking offenses for state courthouse construction. At the same time, Section 70375 allowed the penalty required in 70372 to be offset by the amount collected for the local courthouse construction fund. However, the offset provision was eliminated in SB 425 – (Margett, Statutes of 2007), thereby making mandatory the collection and remittance of the $1.50 parking penalty. Based on remittance records, it appears that most entities overlooked the statutory change, and only three counties properly remitted the $1.50 appropriately in 2008. The AOC and CSAC seek language notifying the State Controller's Office that counties will not be held liable for failure to remit the $1.50 prior to January 1, 2009.

- ***Plumas County Penalty Assessment.*** The SB 1732 (Escutia – Chapter 1082, Statutes of 2002) added subdivision (e) to Section 76000 to address the amount of surcharge that could be collected for local court house construction funds. The AOC notes that the amount identified for Plumas County incorrectly states that the surcharge is $5 when it should read $7. The AOC notes that the county has otherwise been authorized to collect $7 for this purpose since 1992.

- ***New Long Beach Courthouse – Possessory Property Tax Exemption.*** In 2007, the Legislature approved a proposal to construct the New Long Beach Courthouse utilizing a public-private partnership to finance the project. Two financing models were proposed in the request for proposals (RFP) issued for the construction of the courthouse, subjecting the property to an estimated property tax of $4 to $5 million annually. Existing law makes property owned by the State of California exempt fro property tax. However, if a private entity has a "possessory interest" in the public property, it is subject to property tax. Based on the RFP issued by AOC, any possessory property tax assessed would be reimbursed by AOC. The AOC is requesting language that would exclude this project from property tax.

Staff Comments. These trailer bill proposals appear to merit consideration. The proposed changes to collections could result in widespread changes but may also result in significant increases in amounts collected, funding that would benefit both the counties and state. The failure to collect the parking penalties appears to have been simple error, though it may be worth knowing how much revenue went uncollected during 2008. The Plumas County penalty assessment appears to be a simple technical error that requires fixing. The proposed exemption from property tax for the Long Beach Courthouse would result in savings to the private interest or the state relative to current law, but it would result in that tax revenue not being generated for the county. On the other hand, if the project were constructed and owned solely by the state as courthouses typically are, no property tax would be collected anyway.

In considering these proposals, the committee may wish to address the following questions to the Judicial Branch.

- What percentage of court-ordered debt is actually collected? How does this compare to other states?
- What are the major barriers to increasing court-ordered debt?
- How much revenue went uncollected in 2008 due to the failure to collect the $1.50 in additional parking penalties?
- Why did the AOC's RFP for the New Long Beach Courthouse state that any possessory tax interest assessed on a private interest would be transferred to the AOC?
- What did the project proposal approved by the Legislature for the Long Beach project assume about the assessment of property taxes?

Staff Recommendation. Hold open to allow further development and review of proposed language.

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, April 22, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

Item	**Department**
0845	Department of Insurance
0650	Office of Planning and Research
0596	California Agency on Service and Volunteering
0890	Secretary of State
0911	Citizens Redistricting Initiative
	ARRA Oversight Entities
8860	Department of Finance: California Recovery Task Force
0840	State Controller's Office
8855	Bureau of State Audits
0595	ARRA Inspector General

(See Table of Contents on page 2 for a More Specific Listing of 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.

AGENDA

*(Recommended Vote-Only Items indicated by *)*

Public Comment

0845 DEPARTMENT OF INSURANCE

Department Overview. The Department of Insurance (DOI) regulates the California insurance market and enforces the California Insurance Code, conducting examinations and investigations of insurance companies and producers and working to ensure the financial solvency of companies so that they will meet their obligations to policyholders and claimants. DOI investigates more than 300,000 complaints annually and responds to consumer inquiries. DOI also reviews and approves insurance rates to enforce the statutory requirement that rates are not excessive or unfair. DOI also administers the conservation and liquidation of insolvent and delinquent insurance companies and fights insurance fraud in conjunction with local and state law enforcement agencies.

Budget Overview. The January Governor's Budget provides DOI with 1,284.3 authorized positions and $205.4 million (Insurance Fund and reimbursements). This is a decrease of three positions and $5.7 million.

Issues Proposed for Vote Only:

Issue 1 – Paperless Workflow System Project (BCP #ALSB-02)

Governor's Budget Request. The Governor requests increased expenditure authority of $2.4 million (Insurance Fund) and two two-year limited-term positions in 2010-11 to complete the second year implementation phase of the Paperless Workflow System Project (PWSP) which is intended to replace the current paper process with an electronic-based system.

Staff Comment. The original implementation schedule of the PWSP was over three fiscal years (2008-09 through 2010-11). In 2008-09 and 2009-10, respectively, the Legislature approved funding for the first and second year implementation of the PWSP. However, the PWSP has encountered unforeseen procurement delays which pushed back the startup of the project by eight months. These delays were largely out of the control of DOI and involved problems with the Department of General Services renewing the state's Master Services Agreement. These delays have not resulted in an overall increase in the cost of the PWSP project; however, the delays have caused the 2009-10 funding approved by the Legislature to go largely unspent. This request will simply fund those activities that were inadvertently delayed but previously approved by the Legislature.

Issue 2 – Telecommunications Infrastructure Replacement Project (BCP #ALSB-03)

Governor's Budget Request. The Governor requests increased expenditure authority of $429,000 (Insurance Fund) in 2010-11 and on-going, including $279,000 to convert three limited-term positions to permanent status, to provide ongoing support for DOI's Telecommunications Infrastructure Replacement Project (TIRP) and associated maintenance and equipment needs.

Staff Comment. Prior to 2005-06, DOI utilized an antiquated telephone system that had been determined to have exceeded its end-of-life by the manufacturer and was in need of replacement. The DOI pursued a Voice over Internet Protocol (VoIP) solution to replace the system and integrate voice and data on the DOI's network, including at the DOI's 14 offices and two call centers. To support this new system, DOI redirected three permanent positions and augmented staffing with three three-year limited-term positions in 2005-06. In 2008-09, the DOI received authority to extend the limited-term positions by 18 months to June 30, 2010, to allow DOI time to collect empirical data to determine the extent of ongoing permanent staffing requirements to support the VoIP system.

Issue 3 – Mortgage Guaranty Insurers (BCP #LEG-01)

Governor's Budget Request. The Governor requests increased expenditure authority of $106,000 (Insurance Fund) in 2010-11, and $101,000 in 2011-12, to fund one Staff Counsel position on a two-year limited-term basis to support mortgage guaranty regulatory workload responsibilities pursuant to Chapter 574, Statutes of 2009 (SB 291).

Staff Comment. Most residential property loans for more than 80 percent of the appraised value of the home can be made by lenders only if there is mortgage guaranty insurance on the loan. Current statute requires DOI to regulate mortgage guaranty insurers. Chapter 574 was intended to improve flexibility while maintaining the authority of the DOI to regulate this industry. In so doing, Chapter 574 expanded DOI's oversight of mortgage guaranty insurers and generated additional workload that DOI is unable to absorb within existing resources.

Issue 4 – Life Settlements (BCP #LEG-02)

Governor's Budget Request. The Governor requests increased expenditure authority of $405,000 (Insurance Fund) in 2010-11 and $298,000 ongoing (Insurance Fund) for three permanent positions to support life settlement insurance product mandated workload pursuant to Chapter 343, Statutes of 2009 (SB 98).

Staff Comment. A life settlement is a complex financial transaction in which an owner of a life insurance policy sells the policy to a third party for more than the cash value offered by the life insurance company. The purchaser becomes the new beneficiary of the policy at maturity and is responsible for all subsequent premium payments. Life settlements are a new market that is growing rapidly; these settlements have grown from a few billion dollars less than a decade ago to an estimated $13 billion in 2006, and are expected to grow to an estimated $150 billion in the next decade. However, prior to the passage of Chapter 343, Statutes of 2009 (SB 98), life settlements were largely unregulated in California. Chapter 343 instituted licensing requirements and standards for individuals acting as brokers or advising people in these complex transactions. Chapter 343 also authorizes DOI to set a license fee to cover its administrative expenses.

Staff Recommendation: APPROVE BCPs #ALSB-02, #ALSB-03, #LEG-01 and #LEG-02.

VOTE:

Issue Proposed for Discussion / Vote:

Issue 5 – Automobile Fraud Local Assistance Funding

Background. DOI collects $1.50 on each automobile insurance policy sold in California to fund efforts to fight automobile insurance fraud. These funds, per statutory formulas, are distributed to DOI, the California Highway Patrol, and local District Attorney's (DAs). Statute restricts the use of these funds and, for the portion of the local assistance funds distributed to local DAs, allocates the funds between two programs: (1) two-thirds for General Auto Fraud and (2) one-third for the DA Organized Automobile Fraud Activity Interdiction Program (Urban Grant Program), a three year competitive grant program for up to nine counties.

Over the past several years, the DA-designated funding has built up a fund balance. In 2008-09, the funding levels were $13.1 million and $5.8 million, respectively, with year-end cash balances of $6.2 million and $3.3 million, respectively. In 2009-10, and to spend down those balances, in addition to the base funding amount the following was approved: (1) one-time augmentations and (2) ongoing increased funding beginning in 2010-11, bringing the proposed 2009-10 funding levels to $21.9 million and $10.2 million, respectively. The Governor, however, vetoed $6.6 million of this funding, reducing the 2009-10 funding levels to $17.6 million and $8.0 million, leaving year-end cash balances of $2.9 million and $1.5 million, respectively.

Governor's Budget Request. The January Governor's budget requests funding levels of $10.9 million and $4.5 million, respectively, which is less than what was provided in 2008-09. The Governor's proposal is projected to leave year-end balances of $6.4 million and $3.6 million, respectively.

Staff Comment. In vetoing these local assistance funds in 2009, the Governor indicated that he was taking the action "to further control state spending." It is not clear to staff, however, how these *local assistance* funds equate to state spending. However, had the Governor not vetoed a portion of the funding in 2009, there would likely have been a deficit in the fund because revenues came in under projections for the year (the cash balances carried forward from 2008-09 made up the difference). DOI projects that revenues in 2010-11 will be flat. The subcommittee may wish, therefore, to consider the benefits of allocating this "surplus" funding versus ensuring that sufficient funds will be collected throughout the year to cover budgeted allocations. Should the subcommittee choose to augment the proposed allocation in 2010-11, staff recommends that a prudent minimum reserve of $2 million and $1 million, respectively, be maintained.

Staff Recommendation: Given that these are local assistance funds and, per statutory formulas, are due to local DAs to combat automobile insurance fraud, staff recommends that the 2010-11 allocation level be augmented to return to the prior base level. As noted above, the Governor requests funding of $10.886 million and $4.505 million, respectively. Staff is recommending augmenting those amounts by $4.373 million and $2.187 million, respectively, to put the allocations at $15.259 million and $6.692 million, respectively, in 2010-11. In essence, this action restores the Governor's 2009-10 veto of these local assistance funds. Finally, this allocation level will maintain a prudent reserve of $2.053 million and $1.172 million, respectively.

VOTE:

0650 OFFICE OF PLANNING AND RESEARCH

Department Overview. The Office of Planning and Research (OPR) assists the Governor and the Administration in planning, research, policy development, legislative analysis, and acts as a liaison with local government. In addition, OPR has responsibilities pertaining to state planning, the California Environmental Quality Act (CEQA), joint use land planning with the military, permit assistance and environmental and federal project review procedures. OPR also houses the CaliforniaVolunteers (CV) program which administers the federal AmeriCorps and Citizen Corps programs, coordinating volunteer activity related to disaster response, and increasing the number of Californians volunteering in the state.

Issue Proposed for Discussion / Vote:

Issue 1 – Eliminate Office of Planning and Research (April Finance Letter); including proposed trailer bill language

Governor's Budget Request. As part of the 8^{th} Extraordinary Special Session, the Governor requested to eliminate OPR and transfer certain critical programs and functions to other existing entities and, in the case of the CV program, establish the California Agency on Service and Volunteering (CASV) (discussed later in this agenda) as the CV program's new home. This request was accompanied by proposed trailer bill language. The 8^{th} Ex Session adjourned without legislative adoption of this request.

April Finance Letter. In an April Finance Letter, the Governor again requests to eliminate OPR (along with proposed trailer bill language) but with several adjustments to the 2010-11 Budget Bill to reflect a January 1, 2011, effective date for the elimination of OPR. These adjustments are necessary because the Constitution prohibits the establishment or elimination of state offices in urgency legislation. Under the Governor's request, approximately 13 existing OPR positions would be eliminated immediately upon enactment of the 2010-11 budget, generating $571,000 (GF) savings. In total, and as illustrated in Figure 1 below, the Governor's request would retain 57.1 positions in new locations and eliminate the remaining 33.9 positions.

Figure 1

PYs	OPR Function	New Location
8.8	CEQA State Clearinghouse	Natural Resources Agency (NRA)
39.3	CaliforniaVolunteers (CV)	California Agency on Service and Volunteering
2	Administrative support	California Agency on Service and Volunteering
2	Information Technology support	Governor's Office
2	Office of Small Business Advocate	Business, Transportation and Housing Agency
1	Legislative Staff	Housing and Community Development (HCD)
1	Director of OPR	Governor's Office, Senior Advisor
1	Legislative Staff	State and Consumer Services Agency (SCSA)

Background. Given the state's fiscal condition, the Administration indicates that it reviewed a number of programs and services and determined that many of the services provided by OPR are not critical. Therefore, the Administration is proposing the elimination of OPR to create efficiencies while retaining certain critical functions in new locations in state government. The Administration also indicates that the proposal to eliminate OPR is consistent with the 2009 budgetary actions to eliminate or consolidate boards and commissions. As part of this proposal, the Administration is also proposing the establishment of the California Agency on Service and Volunteering as well as the ARRA Inspector General (both discussed later in this agenda).

2009-10 Budget Conference Committee Action. As part of its deliberations on the 2009-10 Budget, the Conference Committee acted to eliminate seven agencies and OPR. With regard to OPR, the Conference Action retained only the following functions of OPR with proposed new locations: (1) two PYs as Advisors moved to Governor's Office; (2) nine PYs and the CEQA Clearinghouse moved to one of three potential locations – Department of Finance, Housing and Community Development, or Department of General Services (DGS); and (3) 35.3 PYs and the CV program moved to the Department of Housing and Community Development. At that time, and with regard to the CEQA Clearinghouse, the Administration preferred it be moved to DGS. Similarly, with regard to the CV program, the Administration preferred a stand-alone department as its new home.

LAO Recommendation. The LAO has long recommended eliminating OPR. Staffed with state employees exempt from the civil service system, OPR's principal duties have included housing staffers that provide bill and policy analyses to the Governor's Office. These functions appropriately belong within the Governor's Office itself. A separate office for them is unnecessary and lessens transparency for the public and the Legislature on the amount of resources being devoted each year to Governor's Office activities.

As illustrated in Figure 1 on page 7 of this agenda, the Governor's request would transfer seven OPR positions to the Governor's Office, BTH, HCD, and SCSA. The LAO recommends that the Legislature eliminate six of these seven positions, which it believes to be nonessential, for an additional savings of $500,000 (GF) per year. The LAO acknowledges that several of these staff members provide enrolled bill reports and other policy analyses to the Governor and other high-ranking executive branch officials. Under the LAO proposal to eliminate these positions, the next Governor will need to adjust his or her administration's staffing, within budgeted resources, to address any functions performed by these current employees that are desired to be continued.

Under the Governor's request, the funding and position authority for the existing Director of OPR would be transferred to the Governor's Office as a Senior Advisor to the Governor. The LAO raises no issue with the transfer of this single position, given the fact that the OPR Director often has been an important, high-level advisor to the Governor. The LAO also raises no issue with the Governor's request to transfer the CEQA State Clearinghouse and planning unit, which performs certain statutorily-required functions that warrant continuation, to the Natural Resources Agency.

The LAO also identified a potential facilities issue with the elimination of OPR. Currently, OPR leases state-owned space from DGS in the historic Blue Anchor Building at the corner of 10th and N Streets in Sacramento. Upon OPR's elimination, DGS will need to find another tenant for OPR's space, or else certain operating costs of the building could remain unsupported by any other tenant, resulting in cost pressures for DGS. The LAO recommends that the Legislature inquire at budget hearings about the Administration's plans to find occupants to use the state-owned space to be vacated by OPR.

With regard to the proposed trailer bill language, the LAO notes that the language does not capture a number of other code sections referencing OPR. Generally these sections (Government Code Sections 65035, 65040, 65040.1, 65040.2, 65040.12, and 65048) lay out statewide planning and land use coordination functions, as well as the state environmental policy report functions. It is unclear whether OPR has been performing some of these functions recently. In eliminating OPR, the Legislature might wish to consider whether other entities in state government should be assigned some of these functions. The LAO therefore recommends that the Legislature ask the Administration to provide a recommendation at or before the May Revision as to how each and every existing statutory responsibility for OPR should be disposed. The Administration may recommend eliminating statutory requirements, transferring them to other departments beginning immediately, or transferring them to other departments on a delayed basis. In addition, modifications may be proposed to these requirements in order to reduce administrative burdens or improve the quality of reports and functions referenced in these statutes.

Staff Comment. Given last year's Conference Committee vote, staff notes that there appears to be widespread agreement to eliminate OPR. There is, however, differences on what functions should be retained and where they would be housed. For instance, the Governor's request retains the Office of the Small Business Advocate as well as a number of legislative, information technology, and administrative support positions. The Governor's request also establishes two new entities, the ARRA Inspector General and CASV. The logic of this latter aspect of the proposal is questionable. Dismantling OPR and replacing it, effectively, with two new state entities (the Volunteering Agency and the ARRA Inspector General) moves the state backward in terms of departmental/agency consolidation and is completely counter to the Administration's stated reason for eliminating OPR which is, as noted above, "to create efficiencies."

With regard to the trailer bill language, staff notes that should the subcommittee adopt the LAO recommendation to eliminate OPR, including the six additional positions, changes would be required to the trailer bill language to reflect, for instance, that the Office of the Small Business Advocate is eliminated (as opposed to transferred to the Business, Transportation and Housing Agency under the Governor's request). Additionally, the proposed trailer bill language adds the ARRA Inspector General to those state entities authorized to be reimbursed for providing centralized services to state departments. This statutory change should be considered as part of the Governor's request on the ARRA Inspector General and not as part of trailer bill related to the elimination of OPR. Finally, staff notes that the proposed trailer bill language does not appear to include all of the statutory changes related to the elimination of OPR. This should be resolved prior to the subcommittee's action on this request to ensure that a comprehensive proposal is before the subcommittee for its consideration and action.

Staff Recommendation. HOLD OPEN the April Finance Letter and proposed trailer bill language to eliminate the Office of Planning and Research pending receipt, at or before May Revise, of the Administration's recommendation as to how each and every existing statutory responsibility for OPR should be disposed of upon the elimination of that office.

0596 CALIFORNIA AGENCY ON SERVICE AND VOLUNTEERING

Budget and Department Overview. The CaliforniaVolunteers (CV) program is currently housed in the Office of Planning and Research (OPR). The January Governor's Budget proposes to eliminate OPR and re-establish the CV program as the newly-created California Agency on Service and Volunteering (CASV). The mission of the proposed CASV is identical to that of the existing CV program – to increase the number of Californians involved with service and volunteerism throughout the state. Therefore, and similar to the current CV program, the proposed CASV would administer federal programs such as AmeriCorps and Citizen Corps, guide policy development to support the non-profit and service fields, coordinate volunteer activity related to disaster response, and be responsible for coordinating a statewide network matching Californians with volunteer opportunities in their communities.

Budget Detail. The January Governor's Budget proposes to establish the CASV and provide it with 41.4 authorized positions and $34.2 million ($1 million GF, $30.1 million federal funds, and $3.1 million reimbursements). This is an augmentation of the CV program baseline GF budget of $100,000 (including 2.1 personnel years, consisting of three full-time and part-time personnel) to perform administrative activities now funded from OPR's budget. In total, the Governor requests $1 million GF support for the new volunteerism agency in 2010-11.

Issues Proposed for Discussion/Vote Only:

Issue 1 – Establish CaliforniaVolunteers as the California Agency on Service and Volunteering (April Finance Letter)

Governor's Budget Request. As part of the 8th Extraordinary Special Session, the Governor requested to eliminate OPR and transfer certain critical programs and functions to other existing entities and, in the case of the CV program, establish the CASV. This request was accompanied by proposed trailer bill language (Issue 2 below). The 8th Ex Session adjourned without legislative adoption of this request.

April Finance Letter. In an April Finance Letter, the Governor again requests to eliminate OPR and establish CASV but with several adjustments to the 2010-11 Budget Bill to reflect a January 1, 2011, effective date for the statutory elimination of that office and the establishment of CASV. These adjustments are necessary because the Constitution prohibits the establishment or elimination of state Offices in urgency legislation.

Background. The National and Community Service Trust Act (Act) of 1993 made federal funds available to states to encourage them to create and administer volunteer and community service programs such as AmeriCorps. The Act required states to establish service commissions as the vehicle for receiving these funds. In response, Governor Pete Wilson established the California Commission on Improving Life Through Service by Executive Order in 1994. In a 2002 Executive Order, Governor Gray Davis renamed the commission as the Governor's Office on Service and Volunteerism and retained the commission's established role and responsibilities. Beginning in 2006, and concluding in February 2008, Governor Arnold Schwarzenegger issued a series of three executive orders that culminated in a reorganized commission known as the CV program. These Executive Orders also expanded the responsibilities of the CV program to: (1) include ensuring the coordination of volunteer activities related to disaster response and recovery, including necessary training, equipment, and transportation provisions; (2) ordered that the CV program will be headed by a Secretary of Service and Volunteering, an at-will appointee of the Governor who is also a Cabinet member; and (3) designated the CV program as the lead agency under the California Emergency Services Act for coordination of monetary and in-kind donations during times of disaster. The primary function of the CV program is to administer about $30 million in federal funding each year for AmeriCorps and other community service programs in California.

The Administration indicates that establishing the CV program in a newly-created stand-alone cabinet-level entity would preserve federal funding and provide for the long-term continuity and stability of CV and its programs. Further, because CV's programs and funding are built around a specific strategy of service and volunteering and impact a wide variety of areas, including education, the environment, and health and social services, the Administration indicates that CV does not lend itself to traditional issue areas or the activities, mission, expertise, or programs of other state departments.

LAO Recommendation. The Legislature established the agency level of government in statute to encompass major state functions, generally with thousands of employees, related to core state responsibilities, such as prisons, business and transportation, health and human services, and state administration. By contrast, volunteerism grants, oversight, and promotion are very minor functions of state government. At a time when the Legislature faces huge reductions in core state programs, it seems ill-advised to create either a new state agency for this minor function or even a separate, new department. This is not required under federal law for California to receive AmeriCorps and other funding. The federal government appears to require only that state entities like CV have the administrative resources necessary to administer and oversee federal grants.

The U.S. Code specifically references the need for state entities like CV to coordinate activities with other state departments administering federal financial assistance programs. One existing entity administering federal financial assistance programs for the state is the Department of Housing and Community Development (HCD), a large, established department that administers various federal funding programs, including the Community Development Block Grant program, homeless shelter grants, and certain affordable housing and Section 8 rent assistance funds. Accordingly, upon elimination of OPR, CV should be established as a section or subsection within HCD's Division of Financial Assistance, which administers these federal financial assistance programs. The missions of CV and HCD's Division of Financial Assistance seem well matched, as they are focused on assisting lower-income persons and communities through distribution of federal and other assistance. Under this option, the Legislature also should provide a small amount of administrative funding and personnel resources to ensure that HCD's administrative and overhead functions suffer little or no impact as a result of becoming the new parent of CV. Most of the staff positions of CV, who, by virtue of their current placement as a program within OPR are exempt from civil service, would be converted to civil service positions within HCD. Additionally, no trailer bill language would be required to accomplish this transfer of budgetary and position authority to HCD.

In the 2009-10 Budget Act, the Legislature programmed $927,000 GF support for CV activities. Principally, as a result of budget adjustments related to the Governor's furlough program, the final expected GF spending by CV in 2009-10 is only about $839,000. The Governor, however, proposes just over $1.0 million of GF spending for CV functions in 2010-11. The Governor's proposal takes the base amount of GF support provided by the Legislature in 2009-10 and grows it by roughly $100,000 to transfer three full-time and part-time positions to CV's successor entity to perform administrative and overhead functions now provided by the staff of OPR, CV's current parent entity.

There is no set required level of state funding for California service projects to receive AmeriCorps and related federal funding. Instead, the federal government offers an administrative grant of somewhere around $850,000 to $1 million to the state, and the state must match each dollar. Then, the overall quality of the state's management and oversight efforts for the grants is one factor in the state's ability to compete for a portion of federal AmeriCorps and related funding.

Given these facts, the LAO recommends that the Legislature provide GF support for CV of only $927,000, or $90,000 less than proposed by the Governor. With the expiration of the furlough program on July 1, 2010, this would basically represent flat funding for CV in 2010-11, the same amount included by the Legislature in CV's 2009-10 budget item. As noted above, it is important to transfer the two or three administrative staff to HCD to ensure that HCD experiences no negative administrative effects as a result of becoming CV's new parent. Accordingly, the LAO recommends elimination of the costly position designated by the Governor as the secretary of service and volunteering with its over $130,000 of annual salary and benefits. There would still be several managerial-level positions in the CV organization, including the current chief of staff position, which could be converted by HCD (if that department chooses) to head the new CV section or subsection in the Division of Financial Assistance. In fact, the savings from elimination of the secretary position may be sufficient to allow CV to establish one or more new line staff positions to enhance oversight of federal grants. This would address a concern of CV that any reductions in funding could make the state less competitive for federal grants due to a perceived decline in administrative and oversight capacity. Under the LAO recommendation, therefore, CV could have greater administrative and oversight capacity than it does now.

Staff Comment. The Governor's budget requests to eliminate OPR which is the current parent entity for the CV program. If OPR is eliminated, it is legitimate that the CV program will need a new home because if CV ceases to exist $30 million in federal funds could be in jeopardy. However, in this search for a new home, staff notes that it is quite a leap to propose that the new home be a brand new cabinet-level entity. Rather, as noted in the prior agenda item which discussed the elimination of OPR, last year the Budget Conference Committee acted to eliminate OPR and retain the CV program and house it at HCD. This approach is consistent with a larger goal of reducing the state bureaucracy and moves the state forward in terms of departmental/agency consolidation. This approach would also ensure continuity and stability for the CV program. Additionally, finding CV a home in an existing state department will result in operational cost savings versus creating a whole new operational structure in a brand new entity.

Staff Recommendation: DENY the April Finance Letter, as well as proposed trailer bill language, to establish the California Agency on Service and Volunteering; HOLD OPEN the LAO recommendation to move the CaliforniaVolunteers program to the Department of Housing and Community Development dependent on the Subcommittee's action on the Governor's request to eliminate the Office of Planning and Research.

VOTE:

Issue 2 – Trailer Bill Language to Establish the CaliforniaVolunteers Fund

Governor's Budget Request. As part of the April Finance Letter, the Governor requests trailer bill language to establish a continuously appropriated CaliforniaVolunteers Fund (CV Fund) for the acceptance of donations, in cash or in-kind, to the CASV.

Background. As noted above, by Executive Order the Governor designated the CV program as the lead agency under the California Emergency Services Act for coordination of monetary and in-kind donations during times of disaster. In requesting the trailer bill that would create the CV Fund with a continuous appropriation, the Administration indicates that the CV program needs the ability to receive and distribute funds across fiscal years because of the uncertain timing of disasters and the rigidity of the fiscal year. Further, the proceeds of this fund would be available for the proposed CASV's use for disaster preparedness, response, and relief activities. Also, the fund could support efforts to increase public participation in community service activities, research concerning volunteerism, and any type of assistance the volunteerism secretary sees fit to give to local nonprofit and governmental entities that utilize volunteers.

LAO Recommendation. The LAO recommends rejection of this proposal***.*** In the event that CV receives such donation offers, it should *always* direct donors to worthy local and nonprofit efforts directly involved in disaster relief. If a donor insists on making a contribution to the state, the administration instead should direct that donor to the California Emergency Management Agency (CalEMA), which manages the existing Disaster Resistant Communities Fund. That fund may receive cash and other contributions pursuant to Section 8588.1 and 8588.2 of the Government Code. Subdivision (b)(2) of Section 8588.2 allows CalEMA to develop procedures to use privately donated materials to aid natural disaster victims and otherwise further the purposes of the fund. If the administration believes that these code sections should be amended to give CalEMA more flexibility to manage cash donations from individuals and others, it should propose changes to these existing code sections. It is unnecessary for the state to have two potentially competing donation funds involved in disaster relief and preparedness. Moreover, the language for the proposed CV Fund provides far too much authority to the executive branch to manage privately-solicited funds.

Staff Comment. As a threshold question, it is not clear to staff why the CV program needs the ability to accept donations, in cash or in-kind, when there are any number of established local and statewide non-profit entities, such as the Red Cross or Salvation Army, that serve this purpose. Further, as delineated in the LAO's recommendation, there is existing statutory authority within CalEMA's Disaster Resistant Communities Fund to accommodate any donations CV might receive which negates the need for this fund much less a continuous appropriation.

Staff Recommendation. DENY the requested trailer bill language to establish the continuously appropriated CaliforniaVolunteers Fund in the State Treasury.

VOTE:

0890 SECRETARY OF STATE

Department Overview. The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The SOS is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and perfecting security agreements. In addition, the SOS is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of documents and records having historical significance. All documents filed are a matter of public record and of historical importance. They are available through prescribed procedures for public review and to certify authenticity.

Budget Overview. The January Governor's Budget provides the SOS with 505 authorized positions and $172.1 million ($99.1 million GF). This is an increase of $86.3 million ($68.3 million GF, $16.6 million federal funds, and miscellaneous special funds and reimbursements) and no positions. The GF increase is attributable to a Governor's January Budget request to reimburse counties for election costs incurred to hold the May 19, 2009, Special Election (Issue 3 below); the federal funds increase is related to the Help America Vote Act (Issues 1 and 2 below).

Issues Proposed for Vote Only:

Issue 1 – Help America Vote Act Amended Spending Plan (BCP 2)

Governor's Budget Request. The Governor requests an increase in expenditure authority of $4.2 million (federal funds) to continue implementation of state mandates related to the Help America Vote Act (HAVA), including assistance for individuals with disabilities, voting systems testing/certification, voter education, performance measures, and administration.

Staff Comment. Funding was originally received in 2003, and a spending plan was required by the Legislature in 2004, and approved on April 14th, 2005. The SOS revises that spending plan annually to accurately reflect actual spending, and propose changes for future spending based on new funding and changes in expenditures.

Issue 2 – Help America Vote Act VoteCal (BCP 3)

Governor's Budget Request. Based on the Special Project Report approved on August 21, 2009, the Governor requests an increase in expenditure authority of $23 million (federal funds) to continue implementation of VoteCal, which is the HAVA-required centralized, interactive computerized voter registration database at the state level.

Staff Comment. Under federal HAVA requirements, VoteCal must coordinate electronically with systems similar to the one used by the Department of Motor Vehicles, the Department of Health Care Services, and the Department of Corrections and Rehabilitation for identification and list maintenance purposes. VoteCal must also provide a functional interface for counties. California has currently reached an interim solution to satisfy the requirements of HAVA, but must achieve a long-term solution per an agreement with the U.S. Department of Justice. VoteCal is that solution. The 2010-11 request is consistent with previous updates and continues to appropriately administer the HAVA required VoteCal system. Current cost estimates for completion of VoteCal are $51 million, which is more than $14 million below prior estimates. There is enough HAVA funding to fund the entire project, and cover at least the first few years of operation costs. It is difficult to determine when HAVA funding will run out, and over the past three years, California has been granted an additional $30 million that will be available upon submission of our revised implementation plan (currently being drafted).

Issue 3 – County Reimbursement for May 19, 2009 Special Election

Governor's Budget Request. The Governor requests $68.2 million to reimburse counties for election costs incurred to hold the May 19, 2009 Special Election. The counties requested these reimbursement funds last year, but given the fiscal climate, that state was unable to provide them. The Governor has included the request for the funding necessary to provide full reimbursement to the counties for costs incurred.

Staff Comment. The state has historically reimbursed the counties for election costs related to statewide mandated elections and special elections. The May 19, 2009 Special Election contained only legislatively-placed measures related to the state's fiscal crisis.

Issue 4 – Funding for Additional Measure on the November Statewide General Election Ballot (BCP 4)

Governor's Budget Request. The Governor requests an additional $715,000 (GF) for printing and mailing of Voter Information Guides (Guides) for the 2010 November Statewide General Election Ballot due to the inclusion of the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 (Water Bond) on the November Ballot.

Background. The Water Bond will require the SOS to include approximately 11 additional pages to explain the proposal to voters. The actual size of the Guide will not be known until 85 days prior to the election, so the SOS uses previous year's versions to estimate the size and cost of preparing, printing, and mailing the Guides. The average Guide is 160 pages, and this year's Guide was estimated to be 96-176 pages at the time the SOS submitted its budget request ($5.95 million GF). The Water Bond was placed on the ballot by the Legislature after the SOS submitted its request. Therefore, with the additional 11 pages attributed to the Water Bond, the SOS is concerned that its estimate will be insufficient to cover all preparation, printing, and mailing costs and is requesting the additional $715,000 to bring the total appropriation in 2010-11 for the Voter Information Guides to $6.665 million (GF).

Staff Comment. While it is possible that the final printing costs will be below current estimates, the SOS is required to have an adequate number of Guides printed, and would have to submit a deficiency request if full funding is not provided. In the alternate, if not all funds are needed to print the Guides, the funds cannot be used for any other purpose and would revert back to the GF. When this item was discussed in Assembly Budget Subcommittee No. 4, there was some concern about ensuring the reversion. In response, the LAO suggested the following provisional language to ensure the reversion of unspent funds to the GF for preparing, printing, and mailing of the Guides:

> *0890-001-0001 Provisions*
> *x. Of the funds appropriated in this item, $6,665,000 is available for preparing, printing, and mailing the state ballot pamphlet pursuant to Article 7 (commencing with Section 9080) of Chapter 1 of Division 9 of the Elections Code. Any unspent funds pursuant to this paragraph shall revert to the General Fund.*

Staff Recommendation. APPROVE BCPs #2 and #3; APPROVE BCP #4 along with additional provisional language to ensure reversion of any unspent funds to the General Fund; and APPROVE County Reimbursement for May 19, 2009 Special Election.

VOTE:

0911 CITIZENS REDISTRICTING INITIATIVE

Overview. Proposition 11, the Voters FIRST Act, was approved by the voters on the November 4, 2008 General Election Ballot. Proposition 11 changed the redistricting process by establishing a 14-member Citizens Redistricting Commission (Commission) to draw the new district boundaries for the State Assembly, State Senate, and Board of Equalization beginning with the 2010 Census. Proposition 11 specifies that a minimum of $3 million in funding be provided, or the amount appropriated for the previous redistricting plus CPI, whichever is greater. Figure 3 below illustrates the required schedule of actions of the State Auditor (Auditor), Legislature, Secretary of State (SOS) and Commission related to the adoption of the district boundaries, culminating in the adoption of final maps by September 15, 2011.

Figure 3

Entity	Required Action
Auditor	By January 1, 2010, initiate the application process
Auditor	Establish an Applicant Review Panel (ARP) to screen applicants
Auditor	By August 1, 2010, publicize names in the applicant pool
Auditor	By October 1, 2010, ARP to recommend 60 applicants to Legislature
Legislature	No later than November 1, 2010, exercise up to 24 “strikes”
Auditor	No later than November 20, 2010, randomly select first eight commissioners
Auditor	No later than December 31, 2010, first eight commissioners select the remaining six to establish the 14-member commission
SOS	Provide support functions to the Commission until its staff and offices are fully functional
Commission	By September 15, 2011 approve three final maps for Assembly, Senate, and Board of Equalization Districts

2009-10 Budget. Per the requirements of Proposition 11, the 2009-10 Budget appropriated $3 million (GF) for Proposition 11 implementation costs over a three year period for the Commission, Auditor, and SOS to implement the initiative. Of that $3 million, $500,000 was transferred to the Auditor in a Joint Legislative Budget Committee (JLBC) action in August 2009; $2.5 million remains unallocated as neither the SOS nor the Commission has requested funding nor has the Auditor presented an additional request to the JLBC.

Issue Proposed for Discussion / Vote:

Issue 1 – One-time Augmentation of $3 million for Proposition 11 Implementation Activities

Governor's Budget Request. The January Governor's Budget proposes a one-time augmentation of $3 million (GF), available for a three-year period, for Proposition 11 activities. This allocation is in addition to the $3 million (GF) appropriation in 2009-10, which was also over three years and of which $2.5 million (GF) remains unallocated.

Background. In the 2009-10 Budget, the Legislature appropriated $3 million to the Citizens Redistricting Commission budget line item and approved related budget provisional language that delineated the process by which the funds would be distributed to the Auditor, SOS, and Commission. Both the SOS and Commission are required to work with and submit requests with detailed cost estimates to the Department of Finance (DOF). For the Auditor to receive an allocation, the provisional language required the Auditor to submit a request to the JLBC and DOF. The JLBC would then provide notification that the Auditor's requested allocation, or a lesser amount, was needed and DOF would make the allocation.

In August 2009, the Auditor requested funds totaling $2.24 million for its responsibilities under Proposition 11. The JLBC approved $500,000 indicating the following: (1) the funding would enable a broad outreach campaign to ensure a diverse and qualified applicant pool; (2) while the Auditor would incur other costs to implement the application process, these costs could be funded through redirection of existing resources since the Auditor would utilize existing staff for many of the activities; and (3) should the Auditor need additional resources before this issue was revisited in spring 2009, the Auditor should draw from the State Audit Fund reserve.

Through March 31, 2010, the Auditor incurred costs of $866,000, exclusive of the $1.363 million Ogilvy Worldwide contract for media and outreach. Through January 31, 2011, the Auditor's total estimated cost for Proposition 11 implementation activities is $3.5 million including the Ogilvy contract. This estimated total cost also includes work by the Auditor to support the commissioners as they are selected in November and December of 2010, as well as when the full Commission begins its work in January 2011.

The Auditor's total cost is higher than originally estimated. At the time the estimates were made in August 2009, there were multiple unknowns, such as the number of initial applications it would receive; i.e., the estimate was based on receiving 10,000 applications, but the actual number exceeded 30,000. In addition, the Auditor did not anticipate the level of customer service type activities related to these 30,000 applicants that are driving a significant amount of its personnel services costs; i.e., responding to thousands of e-mails and telephone calls plus redacting personal and offensive information before posting the applications on-line.

The Auditor plans to absorb all of its Proposition 11 related costs beyond the $500,000 current year allocation. The Auditor indicates an ability to do this because of several one-time "cost savings" measures including: (1) the scope of work conducted for the federal compliance audit was modified as certain federal compliance audit activities were streamlined because of the preparedness reviews and early testing of controls conducted under the ARRA umbrella; (2) salary savings due to an unanticipated and larger number of employee separations and the intentional but temporary shut down of employee recruitment in 2009; and (3) self-initiated work the Auditor conducts under its high-risk authority was reduced to a minimum. These one-time cost saving measures will cover the Auditor's outside expenses related to Prop 11, which are estimated at $2 million through January 2011. What remains are the "in-house" personnel services costs that the Auditor would incur regardless of the work its staff performs.

The Administration proposes that the additional $3 million be appropriated and DOF will allocate funds based on need and when the Commission and SOS submit the required detailed cost estimates in 2010-11. Once approved, DOF will complete an Executive Order to allocate funds to SOS and the Commission. This approach is consistent with the 2009-10 provisional language described above.

With regard to the SOS, an initial estimate of $384,000 (18 months funding – January 1, 2011 through June 30, 2011 plus full-year in 2011-12) has been provided. The estimate is based on overtime hours because the SOS indicates it will be using existing staffing resources. This estimate does not include SOS costs during November and December 2010 when the commissioners begin to be named. However, the SOS has indicated that it will begin requesting funding as soon as the Auditor names the first eight commissioners, which must occur no later than November 20, 2010. The SOS estimate also does not include any actual Commission costs, including office space which under the provisions of Proposition 11 the Governor is required to provide.

LAO Recommendation. The Commission will be the first and, so far, only example of an independent citizens commission attempting to redraw district boundaries. With no other example to consider, the LAO notes the inherent uncertainties in budgeting for the nine-month Commission. Proposition 11 supporters have indicated, however, that likely costs will include outreach, technical expertise, legal counsel knowledgeable in voting rights law, mapping software, various commissioner expenses and operation needs will be required for a successful effort. It is unclear if and how much more, beyond the $2.5 million remaining in the 2009-10 General Fund appropriation, will be required for the commission's efforts.

Proposition 11 requires that at least $3 million (plus inflation from the last redistricting cycle completed after the 2000 Census) be provided for the redistricting work. The $3 million appropriated in the 2009-10 budget plus the anticipated $3 million to be spent by BSA from its State Audit Fund appropriations means that the Legislature already has met Proposition 11's minimum funding requirement. Proposition 11 also permits the Legislature to provide additional appropriations if it determines more is needed for the Commission to fulfill its duties.

The LAO recommends that the Legislature deny the administration's request for an additional $3 million in funding for the Commission. With $2.5 million of last year's GF appropriation still available, the Commission should be able to begin its work in the last six months of 2010-11. Once seated and more familiar with the costs needed to complete its work in 2011-12, the Commission may come to the Legislature and ask for additional funds next year as permitted by Proposition 11.

The LAO further recommends that the Legislature direct the Administration to begin planning for the Commission's needs. The Commission has a relatively short timeline to complete its work. As noted above, the SOS has responsibilities to help the Commission begin its deliberations. The LAO recommends that the Legislature direct the DOF and SOS to plan for the Commission's possible needs as it begins its work. This may include planning for normal department operations, coordinating initial searches for people who may be interested in staffing the commission, and gathering different options the commission may have in selecting appropriate mapping software.

Staff Comment. As noted above, the Auditor plans to absorb all of its Proposition 11 related costs beyond the $500,000 2009-10 allocation. Therefore, $2.5 million of the 2009-10 appropriation remains unspent and can be used to cover the yet-to-be-determined 2010-11 costs of the SOS to support the Commission as it transitions to having its staff and offices finalized and for the Commission itself when it is fully operational. Staff notes that the efficient, and at times strategic, one-time cost saving measures undertaken by the Auditor do not appear to have jeopardized the quality of the work the Auditor produces. However, staff also notes that the Auditor has undertaken these measures at some cost to the operation of its office, including temporarily shutting down employee recruiting and reducing the amount of high risk audit work that was undertaken.

The Auditor is also proposing to absorb its costs to support the commissioners (not costs incurred by the Commission; i.e., travel, per diem, etc.) during the transition period from November 2010 through January 2011. As noted above, the SOS is also indicating it would be requesting funding for these same support functions during this same time period. This duplication should be resolved as it is unnecessary. Staff also notes that it does not appear the SOS has used a realistic approach in developing its estimate. The SOS is requesting half-year funding in 2010-11 and a full year of funding in 2011-12. But under the terms of Proposition

11, the SOS is only to provide transitional support to the Commission and the Commission is required to complete its work and finalize the maps by September 15, 2011. Therefore, it is unclear how the Commission would need the transitional support of the SOS until June 30, 2012. A more realistic timeframe would be through the end of March 2011, as that is when the 2010 census data becomes available and the Commission would have to be fully operational in order to complete its work by the September 15, 2011 deadline. Further, for the Commission to be successful, some advance thought and planning by DOF and the SOS about what the Commission might need, particularly for major decisions like staffing, hardware/software, basic office space, is warranted. Ideally, this effort by DOF and SOS should result in a proposal prepared for the Commission's consideration to aid its effort to become fully operational as soon as possible after its formation.

The key question before the subcommittee is to determine how much more the Commission (and SOS) need in 2010-11 to do its work beyond the $2.5 million that remains unspent from the 2009-10 appropriation. Staff notes that it would be an entirely reasonable course of action to wait until next year's budget process to determine how much more the Commission will need given that there is $2.5 million available for the six-month period from January 1, 2011 to June 30, 2011. While there is a chance that the Commission (and SOS) would exhaust the entirety of the $2.5 million before June 30, 2011, if that were to occur, the Commission could pursue additional funding through a deficiency notice process. This conservative approach would also prevent an over appropriation for Proposition 11 costs; this is an important consideration as the funding provided to this item will create a permanent baseline funding amount, so it is crucial to avoid over-appropriation while still ensuring the effort is adequately funded.

Staff Recommendation. HOLD OPEN to allow time for coordination between the BSA and SOS as to the support needs of the Commission during the transition period from November 2010 through January 2011. Further, and per the LAO recommendation, direct DOF and SOS to plan for the Commission's possible needs as it begins its work, particularly for major decisions such as staffing, hardware/software, basic office space.

ARRA AMERICAN RECOVERY AND REINVESTMENT ACT OVERSIGHT ENTITIES

Background. On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA), a $787 billion plan to create jobs, stimulate the economy, and make improvements to the nation's infrastructure. ARRA provides federal funding for a wide range of federal, state, and local programs as well as tax relief for qualified businesses and individuals. ARRA also created new requirements for state-level oversight and reporting of stimulus dollars provided to state entities. In a May 2009 circular, the federal Office of Management and Budget (OMB) represented that 0.5 percent of total ARRA funds would be made available for these state-level oversight and reporting duties.

California's ARRA accountability framework is comprised of four organizational components: the California Recovery Task Force (CRTF), the ARRA Inspector General (ARRA IG), the Bureau of State Audits (BSA), and the State Controller's Office (SCO). Both the BSA and SCO were pre-existing entities, while the CRTF and ARRA IG were established via Executive Order by the Governor in spring 2009. For the 2009-10 Budget Year, the CRTF's budget was run through the Department of Finance's (DOF) budget item while the ARRA IG's budget was run through the Office of Planning and Research's (OPR) budget item. For 2010-11, the Governor's January Budget contains four separate budget act items, for the BSA, the SCO, the DOF (CRTF's budget), and the proposed ARRA IG.

2009-10 Budget Overview. The 2009-10 Budget, and more specifically Control Section 8.55, authorized federal oversight spending of $1.6 million by the BSA as the central, independent auditing and oversight agency required under various provisions of ARRA. The 2009-10 Budget also authorized oversight spending of $4.1 million to the DOF to be allocated as follows: (1) $500,000 to DOF for its Office of State Audits and Evaluations (OSAE); (2) $500,000 to support the ARRA IG; (3) $200,000 for operating expenses and equipment; (4) $400,000 to support the CRTF; and (5) $2.5 million to the CRTF for a centralized statewide database to catalogue ARRA spending.

On January 11, 2010, and as required by CS 8.55, DOF submitted to the Legislature a report that described the difficulty in recovering the full amount of federal oversight funds as promised by OMB, noting that available federal funds were likely to only be about five percent of the full 0.5 percent level described in May 2009. As allowed under CS 8.55, the DOF also requested from the Joint Legislative Budget Committee (JLBC) authority to expend oversight activity funds above the amounts included in the 2009-10 Budget. Not including funding for the BSA, the additional spending authority for oversight activities included: (1) $1.9 million for the SCO's proposed activities; (2) $1.1 million for the CRTF; and (3) $1.1 million for the ARRA IG. In its February 25, 2010, response, the JLBC did not concur with much of the request. Instead, and consistent with the policy laid out in CS 8.55, the JLBC suggested the Administration move toward a policy of spending no more than $7 million per fiscal year for ARRA oversight activities which should allow all, or nearly all, of the oversight activities to be supported by federal funds. Figure 4 below illustrates the 2009-10 Budget and requested 2010-11 Budget for the four entities; the 2010-11 requests are discussed further below.

Figure 4

Entity		2009-10		2010-11
California Recovery Act Task Force (CRTF)		**$3.969 million**		**$3.992 million**
CRTF Staff		*(1,131,000 million)*		*(1.680 million)*
Office of Chief Information Officer		*(2.586 million)*		*(1.442 million)*
Office of State Audits and Evaluations (DOF)		*(147,000)*		*(808,000)*
Fiscal System Consulting Unit (DOF)		*(105,000)*		*(105,000)*
ARRA Inspector General (IG)		**$898,000**		**$3.388 million**
IG Staff		*(649,000)*		*(2.796 million)*
OSAE		*(249,000)*		*(592,000)*
State Auditor/Bureau of State Audits		**$1.6 million***		**$713,000**
State Controller's Office (SCO)		**$0**		**$1.311 million**
TOTAL		**$6.467 million**		**$9.404 million**

Issues Proposed for Discussion / Vote:

Issue 1 – ARRA Oversight Entities: 2010-11 Budget Requests

A. 8860 Department of Finance – California Recovery Task Force ARRA Funds Oversight (CRTF-01)

Governor's Budget Request. The Governor requests continued expenditure authority of $3.992 million (Central Services Cost Recovery Fund) to support the California Recovery Task Force (CRTF) and its general oversight of the implementation and accountability of ARRA funds received by state agencies. This request includes $1.4 million for the Office of the Chief Information Officer (OCIO) spending on the state's required centralized database and $808,000 for OSAE assistance to departments receiving ARRA funds.

B. 0840 State Controller's Office – ARRA Workload (April Finance Letter)

Governor's Budget Request. In an April Finance Letter, the Governor requests $1.311 million (Central Services Cost Recovery Fund) for the State Controller's

Office to perform enhanced claim audits, additional local government and single audit report reviews, and new local government audits in response to ARRA.

C. 8855 Bureau of State Audits – ARRA Workload

Governor's Budget Request. The January Governor's Budget includes $713,000 for the Bureau of State Audits' ARRA workload. The Administration acknowledges that this figure, however, was only for the first six months of the 2010-11 Budget Year. The Bureau of State Audits' full year costs related to ARRA is $1.2 million, an increase of $500,000 for the remainder of 2010-11.

D. 0595 ARRA Inspector General – ARRA Funds Administration Support (BCP #1)

Governor's Budget Request. The Governor requests one year expenditure authority of $3.388 million (Central Services Cost Recovery Fund) and 21 positions for the ARRA IG to ensure the integrity, accountability, and transparency required under ARRA. At present, the ARRA IG is focusing its work on short-term reviews directed towards detecting and deterring fraud, waste, and abuse at the sub-recipient level. This request includes $2.8 million for the ARRA IG staff and $600,000 for contracted work with OSAE.

LAO Recommendation. Under the Governor's requests, total ARRA oversight and reporting spending in 2010-11 likely would exceed available federal resources by about $2 million to $3 million. This excess of spending would have to be paid from the GF. Because the Governor's proposed ARRA oversight and reporting program exceeds federal requirements, this GF spending is unnecessary. Moreover, should the state budget all available federal ARRA oversight dollars now, no federal funding would be available later for: (1) unexpected, critical ARRA auditing and compliance requirements for BSA and other departments in 2010-11 or (2) ARRA reporting requirements in 2011-12 and beyond (assuming the federal government allows use of federal funds for these requirements after the end of the federal government's 2010-11 fiscal year). The LAO strongly recommends, therefore, that the Legislature sharply reduce the Governor's proposed ARRA oversight and reporting spending to well within the amount likely to be covered by available federal funds in 2010-11 as follows:

1. <u>CRTF</u>: Reduce spending for the CRTF by $100,000 to reflect updated administration estimates of staffing costs.
2. <u>ARRA IG</u>: The Governor proposes a huge increase in the ARRA IG's budget: from $898,000 in 2009-10 (consisting of $649,000 for the ARRA IG staff and $249,000 for work with OSAE) to $3.4 million in 2010-11 (consisting of $2.8 million for staff and $600,000 for OSAE work). The LAO recommends that the ARRA IG's OSAE budget be eliminated in 2010-11 and that the office's staff budget be set at $800,000, a $151,000 increase over 2009-10. Further, the LAO recommends no statutory action to

continue the work of the existing ARRA IG office. Established by executive order and not through a codified statutory action of the Legislature, the office currently is housed for budgetary purposes in OPR, which is proposed to be eliminated. The LAO suggests that the ARRA IG be housed in the Governor's Office in 2010-11, which is appropriate given that the ARRA IG was created and appointed solely through gubernatorial action.

With regard to the BSA, the Governor's budget proposal included BSA spending only through December 2010. More recent estimates indicate that an additional $500,000 needs to be budgeted to cover BSA's ARRA-related activities through the end of 2010-11. The LAO recommends this augmentation.

Finally, the LAO recommends budgeting for an ARRA "Oversight Reserve." The above recommendations would reduce statewide ARRA oversight and reporting spending below the Governor's requests by about $2.2 million to $7.2 million in 2010-11. This would leave about $300,000 of potentially available federal funding for other ARRA oversight and reporting activities in 2010-11 and beyond, to the extent permitted by the federal government. In effect, this would be a "reserve fund" for future ARRA oversight and reporting requirements. The LAO also recommends that the Legislature include provisional language in the DOF and BSA line items to authorize those entities to request from the JLBC the ability to spend all or a part of the reserve funds in 2010-11 if the funds: (1) are certified by DOF as likely to be available from the federal government and (2) fulfill a mandatory ARRA oversight, auditing, or reporting need. With any request from DOF or BSA, DOF should be required to report to the Legislature the latest guidance on ARRA oversight and reporting requirements after 2010-11 and whether the federal government will permit the use of any funds unexpended in 2010-11 for those requirements.

Staff Comment. In its February 25, 2009, letter, the JLBC laid out a clear policy – the state should spend no more than $7 million per fiscal year for ARRA oversight activities to allow all, or nearly all, of the costs to be supported by federal funds. The total of the above four requests, however, is $9.4 million, nearly $2.5 million above the stated goal and expected level of federal reimbursement requiring the GF to serve as a backfill. This funding level is also indicative of the fact that the Governor's proposed ARRA oversight and reporting program exceeds federal requirements.

With regard to SCO's request, staff notes that the SCO's 2010-11 request responds to the February 2009 JLBC letter. That letter denied the SCO's request for funding in 2009-10 because, per the provisions of CS 8.55, the SCO was not an eligible recipient for such funding. However, in denying that funding, the JLBC recognized that the SCO has ARRA oversight responsibilities, including review of additional local government mandated single audit reports and expenditure claim reviews. Therefore, the JLBC suggested that the SCO may wish to request funding for its proposed activities during the regular 2010-11 budget hearing process. The Finance Letter before the Subcommittee is that narrowed request on the portion of ARRA oversight for which the SCO has responsibility.

Similarly, the BSA's 2010-11 request is solely related to work necessary to complete the mandated annual single federal compliance audit, including interim testing and reporting, audit work for existing major federal programs that will receive ARRA funding and have supplemental single audit requirements, and auditing the 1512 reports ARRA requires states to submit each quarter. Due to the timing of the budget development process, however, the Governor's January Budget only includes half-year funding for the BSA. Therefore, for the subcommittee to provide the BSA with a full year's funding, it must provide a technical augmentation of $437,000 to ensure the BSA is provided the full amount of funding needed in 2010-11 to complete its ARRA related work.

The 2010-11 requests for the CRTF and ARRA IG cumulatively represent 78 percent of the total requested; 42 percent and 36 percent, respectively. Staff notes, however, that 36 percent of the CRTF request is actually a pass through to the Office of Chief Information Officer for purposes of the federally-required centralized database, which brings the cost of the CRTF to 27 percent of the total request. As noted above, included in that figure is substantive work by the OSAE that is crucial to the CRTF's ARRA oversight responsibilities. Staff notes, however, that the 2010-11 CRTF request contains a small amount of personnel funding ($100,000) that was denied by the JLBC in 2009-10. The Administration has agreed that this reduction should be carried forward into 2010-11.

With regard to the ARRA IG, the Administration has made clear that the request is one year in nature; i.e., only for 2010-11. This is consistent with the stated purpose of the ARRA IG – it was established strictly for ARRA oversight. Therefore, it is logical that this request is for one year only, as ARRA dollars cease September 30, 2011. Yet, the 2010-11 request represents a large increase in funding as compared to 2009-10. Staff notes that this level of staffing and funding is disproportionate in comparison to the other ARRA oversight entities and the value-added by their work. The ARRA IG request also has some measure of overlap with the CRTF request related to the services of OSAE.

Staff Recommendation. APPROVE the LAO recommendation, thereby reducing the Governor's 2010-11 ARRA Oversight expenditure request by $2.2 million, as detailed above, including the adoption of the provisional language related to an ARRA Oversight Reserve. Note, with regard to the ARRA IG, its "budgetary home" (i.e., Governor's Office budget or. OPR's budget) will be a conforming action dependent on the Subcommittee's action on the Governor's request to eliminate OPR.

VOTE:

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, April 22, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

OUTCOMES

Item	**Department**
0845	Department of Insurance
0650	Office of Planning and Research
0596	California Agency on Service and Volunteering
0890	Secretary of State
0911	Citizens Redistricting Initiative
	ARRA Oversight Entities
8860	Department of Finance: California Recovery Task Force
0840	State Controller's Office
8855	Bureau of State Audits
0595	ARRA Inspector General

(See Table of Contents on page 2 for a More Specific Listing of 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.

AGENDA

*(Recommended Vote-Only Items indicated by *)*

Public Comment

0845 DEPARTMENT OF INSURANCE

Department Overview. The Department of Insurance (DOI) regulates the California insurance market and enforces the California Insurance Code, conducting examinations and investigations of insurance companies and producers and working to ensure the financial solvency of companies so that they will meet their obligations to policyholders and claimants. DOI investigates more than 300,000 complaints annually and responds to consumer inquiries. DOI also reviews and approves insurance rates to enforce the statutory requirement that rates are not excessive or unfair. DOI also administers the conservation and liquidation of insolvent and delinquent insurance companies and fights insurance fraud in conjunction with local and state law enforcement agencies.

Budget Overview. The January Governor's Budget provides DOI with 1,284.3 authorized positions and $205.4 million (Insurance Fund and reimbursements). This is a decrease of three positions and $5.7 million.

Issues Proposed for Vote Only:

Issue 1 – Paperless Workflow System Project (BCP #ALSB-02)

Governor's Budget Request. The Governor requests increased expenditure authority of $2.4 million (Insurance Fund) and two two-year limited-term positions in 2010-11 to complete the second year implementation phase of the Paperless Workflow System Project (PWSP) which is intended to replace the current paper process with an electronic-based system.

Staff Comment. The original implementation schedule of the PWSP was over three fiscal years (2008-09 through 2010-11). In 2008-09 and 2009-10, respectively, the Legislature approved funding for the first and second year implementation of the PWSP. However, the PWSP has encountered unforeseen procurement delays which pushed back the startup of the project by eight months. These delays were largely out of the control of DOI and involved problems with the Department of General Services renewing the state's Master Services Agreement. These delays have not resulted in an overall increase in the cost of the PWSP project; however, the delays have caused the 2009-10 funding approved by the Legislature to go largely unspent. This request will simply fund those activities that were inadvertently delayed but previously approved by the Legislature.

Issue 2 – Telecommunications Infrastructure Replacement Project (BCP #ALSB-03)

Governor's Budget Request. The Governor requests increased expenditure authority of $429,000 (Insurance Fund) in 2010-11 and on-going, including $279,000 to convert three limited-term positions to permanent status, to provide ongoing support for DOI's Telecommunications Infrastructure Replacement Project (TIRP) and associated maintenance and equipment needs.

Staff Comment. Prior to 2005-06, DOI utilized an antiquated telephone system that had been determined to have exceeded its end-of-life by the manufacturer and was in need of replacement. The DOI pursued a Voice over Internet Protocol (VoIP) solution to replace the system and integrate voice and data on the DOI's network, including at the DOI's 14 offices and two call centers. To support this new system, DOI redirected three permanent positions and augmented staffing with three three-year limited-term positions in 2005-06. In 2008-09, the DOI received authority to extend the limited-term positions by 18 months to June 30, 2010, to allow DOI time to collect empirical data to determine the extent of ongoing permanent staffing requirements to support the VoIP system.

Issue 3 – Mortgage Guaranty Insurers (BCP #LEG-01)

Governor's Budget Request. The Governor requests increased expenditure authority of $106,000 (Insurance Fund) in 2010-11, and $101,000 in 2011-12, to fund one Staff Counsel position on a two-year limited-term basis to support mortgage guaranty regulatory workload responsibilities pursuant to Chapter 574, Statutes of 2009 (SB 291).

Staff Comment. Most residential property loans for more than 80 percent of the appraised value of the home can be made by lenders only if there is mortgage guaranty insurance on the loan. Current statute requires DOI to regulate mortgage guaranty insurers. Chapter 574 was intended to improve flexibility while maintaining the authority of the DOI to regulate this industry. In so doing, Chapter 574 expanded DOI's oversight of mortgage guaranty insurers and generated additional workload that DOI is unable to absorb within existing resources.

Issue 4 – Life Settlements (BCP #LEG-02)

Governor's Budget Request. The Governor requests increased expenditure authority of $405,000 (Insurance Fund) in 2010-11 and $298,000 ongoing (Insurance Fund) for three permanent positions to support life settlement insurance product mandated workload pursuant to Chapter 343, Statutes of 2009 (SB 98).

Staff Comment. A life settlement is a complex financial transaction in which an owner of a life insurance policy sells the policy to a third party for more than the cash value offered by the life insurance company. The purchaser becomes the new beneficiary of the policy at maturity and is responsible for all subsequent premium payments. Life settlements are a new market that is growing rapidly; these settlements have grown from a few billion dollars less than a decade ago to an estimated $13 billion in 2006, and are expected to grow to an estimated $150 billion in the next decade. However, prior to the passage of Chapter 343, Statutes of 2009 (SB 98), life settlements were largely unregulated in California. Chapter 343 instituted licensing requirements and standards for individuals acting as brokers or advising people in these complex transactions. Chapter 343 also authorizes DOI to set a license fee to cover its administrative expenses.

Staff Recommendation: APPROVE BCPs #ALSB-02, #ALSB-03, #LEG-01 and #LEG-02.

VOTE: 2-0 (Harman absent)

Issue Proposed for Discussion / Vote:

Issue 5 – Automobile Fraud Local Assistance Funding

Background. DOI collects $1.50 on each automobile insurance policy sold in California to fund efforts to fight automobile insurance fraud. These funds, per statutory formulas, are distributed to DOI, the California Highway Patrol, and local District Attorney's (DAs). Statute restricts the use of these funds and, for the portion of the local assistance funds distributed to local DAs, allocates the funds between two programs: (1) two-thirds for General Auto Fraud and (2) one-third for the DA Organized Automobile Fraud Activity Interdiction Program (Urban Grant Program), a three year competitive grant program for up to nine counties.

Over the past several years, the DA-designated funding has built up a fund balance. In 2008-09, the funding levels were $13.1 million and $5.8 million, respectively, with year-end cash balances of $6.2 million and $3.3 million, respectively. In 2009-10, and to spend down those balances, in addition to the base funding amount the following was approved: (1) one-time augmentations and (2) ongoing increased funding beginning in 2010-11, bringing the proposed 2009-10 funding levels to $21.9 million and $10.2 million, respectively. The Governor, however, vetoed $6.6 million of this funding, reducing the 2009-10 funding levels to $17.6 million and $8.0 million, leaving year-end cash balances of $2.9 million and $1.5 million, respectively.

Governor's Budget Request. The January Governor's budget requests funding levels of $10.9 million and $4.5 million, respectively, which is less than what was provided in 2008-09. The Governor's proposal is projected to leave year-end balances of $6.4 million and $3.6 million, respectively.

Staff Comment. In vetoing these local assistance funds in 2009, the Governor indicated that he was taking the action "to further control state spending." It is not clear to staff, however, how these *local assistance* funds equate to state spending. However, had the Governor not vetoed a portion of the funding in 2009, there would likely have been a deficit in the fund because revenues came in under projections for the year (the cash balances carried forward from 2008-09 made up the difference). DOI projects that revenues in 2010-11 will be flat. The subcommittee may wish, therefore, to consider the benefits of allocating this "surplus" funding versus ensuring that sufficient funds will be collected throughout the year to cover budgeted allocations. Should the subcommittee choose to augment the proposed allocation in 2010-11, staff recommends that a prudent minimum reserve of $2 million and $1 million, respectively, be maintained.

Staff Recommendation: Given that these are local assistance funds and, per statutory formulas, are due to local DAs to combat automobile insurance fraud, staff recommends that the 2010-11 allocation level be augmented to return to the prior base level. As noted above, the Governor requests funding of $10.886 million and $4.505 million, respectively. Staff is recommending augmenting those amounts by $4.373 million and $2.187 million, respectively, to put the allocations at $15.259 million and $6.692 million, respectively, in 2010-11. In essence, this action restores the Governor's 2009-10 veto of these local assistance funds. Finally, this allocation level will maintain a prudent reserve of $2.053 million and $1.172 million, respectively.

VOTE: 2-0 (Harman absent)

0650 OFFICE OF PLANNING AND RESEARCH

Department Overview. The Office of Planning and Research (OPR) assists the Governor and the Administration in planning, research, policy development, legislative analysis, and acts as a liaison with local government. In addition, OPR has responsibilities pertaining to state planning, the California Environmental Quality Act (CEQA), joint use land planning with the military, permit assistance and environmental and federal project review procedures. OPR also houses the CaliforniaVolunteers (CV) program which administers the federal AmeriCorps and Citizen Corps programs, coordinating volunteer activity related to disaster response, and increasing the number of Californians volunteering in the state.

Issue Proposed for Discussion / Vote:

Issue 1 – Eliminate Office of Planning and Research (April Finance Letter); including proposed trailer bill language

Governor's Budget Request. As part of the 8th Extraordinary Special Session, the Governor requested to eliminate OPR and transfer certain critical programs and functions to other existing entities and, in the case of the CV program, establish the California Agency on Service and Volunteering (CASV) (discussed later in this agenda) as the CV program's new home. This request was accompanied by proposed trailer bill language. The 8th Ex Session adjourned without legislative adoption of this request.

April Finance Letter. In an April Finance Letter, the Governor again requests to eliminate OPR (along with proposed trailer bill language) but with several adjustments to the 2010-11 Budget Bill to reflect a January 1, 2011, effective date for the elimination of OPR. These adjustments are necessary because the Constitution prohibits the establishment or elimination of state offices in urgency legislation. Under the Governor's request, approximately 13 existing OPR positions would be eliminated immediately upon enactment of the 2010-11 budget, generating $571,000 (GF) savings. In total, and as illustrated in Figure 1 below, the Governor's request would retain 57.1 positions in new locations and eliminate the remaining 33.9 positions.

Figure 1

PYs	OPR Function	New Location
8.8	CEQA State Clearinghouse	Natural Resources Agency (NRA)
39.3	CaliforniaVolunteers (CV)	California Agency on Service and Volunteering
2	Administrative support	California Agency on Service and Volunteering
2	Information Technology support	Governor's Office
2	Office of Small Business Advocate	Business, Transportation and Housing Agency
1	Legislative Staff	Housing and Community Development (HCD)
1	Director of OPR	Governor's Office, Senior Advisor
1	Legislative Staff	State and Consumer Services Agency (SCSA)

Background. Given the state's fiscal condition, the Administration indicates that it reviewed a number of programs and services and determined that many of the services provided by OPR are not critical. Therefore, the Administration is proposing the elimination of OPR to create efficiencies while retaining certain critical functions in new locations in state government. The Administration also indicates that the proposal to eliminate OPR is consistent with the 2009 budgetary actions to eliminate or consolidate boards and commissions. As part of this proposal, the Administration is also proposing the establishment of the California Agency on Service and Volunteering as well as the ARRA Inspector General (both discussed later in this agenda).

2009-10 Budget Conference Committee Action. As part of its deliberations on the 2009-10 Budget, the Conference Committee acted to eliminate seven agencies and OPR. With regard to OPR, the Conference Action retained only the following functions of OPR with proposed new locations: (1) two PYs as Advisors moved to Governor's Office; (2) nine PYs and the CEQA Clearinghouse moved to one of three potential locations – Department of Finance, Housing and Community Development, or Department of General Services (DGS); and (3) 35.3 PYs and the CV program moved to the Department of Housing and Community Development. At that time, and with regard to the CEQA Clearinghouse, the Administration preferred it be moved to DGS. Similarly, with regard to the CV program, the Administration preferred a stand-alone department as its new home.

LAO Recommendation. The LAO has long recommended eliminating OPR. Staffed with state employees exempt from the civil service system, OPR's principal duties have included housing staffers that provide bill and policy analyses to the Governor's Office. These functions appropriately belong within the Governor's Office itself. A separate office for them is unnecessary and lessens transparency for the public and the Legislature on the amount of resources being devoted each year to Governor's Office activities.

As illustrated in Figure 1 on page 7 of this agenda, the Governor's request would transfer seven OPR positions to the Governor's Office, BTH, HCD, and SCSA. The LAO recommends that the Legislature eliminate six of these seven positions, which it believes to be nonessential, for an additional savings of $500,000 (GF) per year. The LAO acknowledges that several of these staff members provide enrolled bill reports and other policy analyses to the Governor and other high-ranking executive branch officials. Under the LAO proposal to eliminate these positions, the next Governor will need to adjust his or her administration's staffing, within budgeted resources, to address any functions performed by these current employees that are desired to be continued.

Under the Governor's request, the funding and position authority for the existing Director of OPR would be transferred to the Governor's Office as a Senior Advisor to the Governor. The LAO raises no issue with the transfer of this single position, given the fact that the OPR Director often has been an important, high-level advisor to the Governor. The LAO also raises no issue with the Governor's request to transfer the CEQA State Clearinghouse and planning unit, which performs certain statutorily-required functions that warrant continuation, to the Natural Resources Agency.

The LAO also identified a potential facilities issue with the elimination of OPR. Currently, OPR leases state-owned space from DGS in the historic Blue Anchor Building at the corner of 10th and N Streets in Sacramento. Upon OPR's elimination, DGS will need to find another tenant for OPR's space, or else certain operating costs of the building could remain unsupported by any other tenant, resulting in cost pressures for DGS. The LAO recommends that the Legislature inquire at budget hearings about the Administration's plans to find occupants to use the state-owned space to be vacated by OPR.

With regard to the proposed trailer bill language, the LAO notes that the language does not capture a number of other code sections referencing OPR. Generally these sections (Government Code Sections 65035, 65040, 65040.1, 65040.2, 65040.12, and 65048) lay out statewide planning and land use coordination functions, as well as the state environmental policy report functions. It is unclear whether OPR has been performing some of these functions recently. In eliminating OPR, the Legislature might wish to consider whether other entities in state government should be assigned some of these functions. The LAO therefore recommends that the Legislature ask the Administration to provide a recommendation at or before the May Revision as to how each and every existing statutory responsibility for OPR should be disposed. The Administration may recommend eliminating statutory requirements, transferring them to other departments beginning immediately, or transferring them to other departments on a delayed basis. In addition, modifications may be proposed to these requirements in order to reduce administrative burdens or improve the quality of reports and functions referenced in these statutes.

Staff Comment. Given last year's Conference Committee vote, staff notes that there appears to be widespread agreement to eliminate OPR. There is, however, differences on what functions should be retained and where they would be housed. For instance, the Governor's request retains the Office of the Small Business Advocate as well as a number of legislative, information technology, and administrative support positions. The Governor's request also establishes two new entities, the ARRA Inspector General and CASV. The logic of this latter aspect of the proposal is questionable. Dismantling OPR and replacing it, effectively, with two new state entities (the Volunteering Agency and the ARRA Inspector General) moves the state backward in terms of departmental/agency consolidation and is completely counter to the Administration's stated reason for eliminating OPR which is, as noted above, "to create efficiencies."

With regard to the trailer bill language, staff notes that should the subcommittee adopt the LAO recommendation to eliminate OPR, including the six additional positions, changes would be required to the trailer bill language to reflect, for instance, that the Office of the Small Business Advocate is eliminated (as opposed to transferred to the Business, Transportation and Housing Agency under the Governor's request). Additionally, the proposed trailer bill language adds the ARRA Inspector General to those state entities authorized to be reimbursed for providing centralized services to state departments. This statutory change should be considered as part of the Governor's request on the ARRA Inspector General and not as part of trailer bill related to the elimination of OPR. Finally, staff notes that the proposed trailer bill language does not appear to include all of the statutory changes related to the elimination of OPR. This should be resolved prior to the subcommittee's action on this request to ensure that a comprehensive proposal is before the subcommittee for its consideration and action.

Staff Recommendation. HOLD OPEN the April Finance Letter and proposed trailer bill language to eliminate the Office of Planning and Research pending receipt, at or before May Revise, of the Administration's recommendation as to how each and every existing statutory responsibility for OPR should be disposed of upon the elimination of that office.

REQUEST HELD OPEN

0596 CALIFORNIA AGENCY ON SERVICE AND VOLUNTEERING

Budget and Department Overview. The CaliforniaVolunteers (CV) program is currently housed in the Office of Planning and Research (OPR). The January Governor's Budget proposes to eliminate OPR and re-establish the CV program as the newly-created California Agency on Service and Volunteering (CASV). The mission of the proposed CASV is identical to that of the existing CV program – to increase the number of Californians involved with service and volunteerism throughout the state. Therefore, and similar to the current CV program, the proposed CASV would administer federal programs such as AmeriCorps and Citizen Corps, guide policy development to support the non-profit and service fields, coordinate volunteer activity related to disaster response, and be responsible for coordinating a statewide network matching Californians with volunteer opportunities in their communities.

Budget Detail. The January Governor's Budget proposes to establish the CASV and provide it with 41.4 authorized positions and $34.2 million ($1 million GF, $30.1 million federal funds, and $3.1 million reimbursements). This is an augmentation of the CV program baseline GF budget of $100,000 (including 2.1 personnel years, consisting of three full-time and part-time personnel) to perform administrative activities now funded from OPR's budget. In total, the Governor requests $1 million GF support for the new volunteerism agency in 2010-11.

Issues Proposed for Discussion/Vote Only:

Issue 1 – Establish CaliforniaVolunteers as the California Agency on Service and Volunteering (April Finance Letter)

Governor's Budget Request. As part of the 8th Extraordinary Special Session, the Governor requested to eliminate OPR and transfer certain critical programs and functions to other existing entities and, in the case of the CV program, establish the CASV. This request was accompanied by proposed trailer bill language (Issue 2 below). The 8th Ex Session adjourned without legislative adoption of this request.

April Finance Letter. In an April Finance Letter, the Governor again requests to eliminate OPR and establish CASV but with several adjustments to the 2010-11 Budget Bill to reflect a January 1, 2011, effective date for the statutory elimination of that office and the establishment of CASV. These adjustments are necessary because the Constitution prohibits the establishment or elimination of state Offices in urgency legislation.

Background. The National and Community Service Trust Act (Act) of 1993 made federal funds available to states to encourage them to create and administer volunteer and community service programs such as AmeriCorps. The Act required states to establish service commissions as the vehicle for receiving these funds. In response, Governor Pete Wilson established the California Commission on Improving Life Through Service by Executive Order in 1994. In a 2002 Executive Order, Governor Gray Davis renamed the commission as the Governor's Office on Service and Volunteerism and retained the commission's established role and responsibilities. Beginning in 2006, and concluding in February 2008, Governor Arnold Schwarzenegger issued a series of three executive orders that culminated in a reorganized commission known as the CV program. These Executive Orders also expanded the responsibilities of the CV program to: (1) include ensuring the coordination of volunteer activities related to disaster response and recovery, including necessary training, equipment, and transportation provisions; (2) ordered that the CV program will be headed by a Secretary of Service and Volunteering, an at-will appointee of the Governor who is also a Cabinet member; and (3) designated the CV program as the lead agency under the California Emergency Services Act for coordination of monetary and in-kind donations during times of disaster. The primary function of the CV program is to administer about $30 million in federal funding each year for AmeriCorps and other community service programs in California.

The Administration indicates that establishing the CV program in a newly-created stand-alone cabinet-level entity would preserve federal funding and provide for the long-term continuity and stability of CV and its programs. Further, because CV's programs and funding are built around a specific strategy of service and volunteering and impact a wide variety of areas, including education, the environment, and health and social services, the Administration indicates that CV does not lend itself to traditional issue areas or the activities, mission, expertise, or programs of other state departments.

LAO Recommendation. The Legislature established the agency level of government in statute to encompass major state functions, generally with thousands of employees, related to core state responsibilities, such as prisons, business and transportation, health and human services, and state administration. By contrast, volunteerism grants, oversight, and promotion are very minor functions of state government. At a time when the Legislature faces huge reductions in core state programs, it seems ill-advised to create either a new state agency for this minor function or even a separate, new department. This is not required under federal law for California to receive AmeriCorps and other funding. The federal government appears to require only that state entities like CV have the administrative resources necessary to administer and oversee federal grants.

The U.S. Code specifically references the need for state entities like CV to coordinate activities with other state departments administering federal financial assistance programs. One existing entity administering federal financial assistance programs for the state is the Department of Housing and Community

Development (HCD), a large, established department that administers various federal funding programs, including the Community Development Block Grant program, homeless shelter grants, and certain affordable housing and Section 8 rent assistance funds. Accordingly, upon elimination of OPR, CV should be established as a section or subsection within HCD's Division of Financial Assistance, which administers these federal financial assistance programs. The missions of CV and HCD's Division of Financial Assistance seem well matched, as they are focused on assisting lower-income persons and communities through distribution of federal and other assistance. Under this option, the Legislature also should provide a small amount of administrative funding and personnel resources to ensure that HCD's administrative and overhead functions suffer little or no impact as a result of becoming the new parent of CV. Most of the staff positions of CV, who, by virtue of their current placement as a program within OPR are exempt from civil service, would be converted to civil service positions within HCD. Additionally, no trailer bill language would be required to accomplish this transfer of budgetary and position authority to HCD.

In the 2009-10 Budget Act, the Legislature programmed $927,000 GF support for CV activities. Principally, as a result of budget adjustments related to the Governor's furlough program, the final expected GF spending by CV in 2009-10 is only about $839,000. The Governor, however, proposes just over $1.0 million of GF spending for CV functions in 2010-11. The Governor's proposal takes the base amount of GF support provided by the Legislature in 2009-10 and grows it by roughly $100,000 to transfer three full-time and part-time positions to CV's successor entity to perform administrative and overhead functions now provided by the staff of OPR, CV's current parent entity.

There is no set required level of state funding for California service projects to receive AmeriCorps and related federal funding. Instead, the federal government offers an administrative grant of somewhere around $850,000 to $1 million to the state, and the state must match each dollar. Then, the overall quality of the state's management and oversight efforts for the grants is one factor in the state's ability to compete for a portion of federal AmeriCorps and related funding.

Given these facts, the LAO recommends that the Legislature provide GF support for CV of only $927,000, or $90,000 less than proposed by the Governor. With the expiration of the furlough program on July 1, 2010, this would basically represent flat funding for CV in 2010-11, the same amount included by the Legislature in CV's 2009-10 budget item. As noted above, it is important to transfer the two or three administrative staff to HCD to ensure that HCD experiences no negative administrative effects as a result of becoming CV's new parent. Accordingly, the LAO recommends elimination of the costly position designated by the Governor as the secretary of service and volunteering with its over $130,000 of annual salary and benefits. There would still be several managerial-level positions in the CV organization, including the current chief of staff position, which could be converted by HCD (if that department chooses) to head the new CV section or subsection in the Division of Financial Assistance. In fact, the savings from elimination of the secretary position may be sufficient to allow CV to establish one or more new line staff positions to enhance oversight of federal grants. This would address a concern of CV that any reductions in funding could make the state less competitive for federal grants due to a perceived decline in administrative and oversight capacity. Under the LAO recommendation, therefore, CV could have greater administrative and oversight capacity than it does now.

Staff Comment. The Governor's budget requests to eliminate OPR which is the current parent entity for the CV program. If OPR is eliminated, it is legitimate that the CV program will need a new home because if CV ceases to exist $30 million in federal funds could be in jeopardy. However, in this search for a new home, staff notes that it is quite a leap to propose that the new home be a brand new cabinet-level entity. Rather, as noted in the prior agenda item which discussed the elimination of OPR, last year the Budget Conference Committee acted to eliminate OPR and retain the CV program and house it at HCD. This approach is consistent with a larger goal of reducing the state bureaucracy and moves the state forward in terms of departmental/agency consolidation. This approach would also ensure continuity and stability for the CV program. Additionally, finding CV a home in an existing state department will result in operational cost savings versus creating a whole new operational structure in a brand new entity.

Staff Recommendation: DENY the April Finance Letter, as well as proposed trailer bill language, to establish the California Agency on Service and Volunteering; HOLD OPEN the LAO recommendation to move the CaliforniaVolunteers program to the Department of Housing and Community Development dependent on the Subcommittee's action on the Governor's request to eliminate the Office of Planning and Research.

VOTE: NO VOTE taken on proposed trailer due to lack of quorum. Entire issue HELD OPEN.

Issue 2 – Trailer Bill Language to Establish the CaliforniaVolunteers Fund

Governor's Budget Request. As part of the April Finance Letter, the Governor requests trailer bill language to establish a continuously appropriated CaliforniaVolunteers Fund (CV Fund) for the acceptance of donations, in cash or in-kind, to the CASV.

Background. As noted above, by Executive Order the Governor designated the CV program as the lead agency under the California Emergency Services Act for coordination of monetary and in-kind donations during times of disaster. In requesting the trailer bill that would create the CV Fund with a continuous appropriation, the Administration indicates that the CV program needs the ability to receive and distribute funds across fiscal years because of the uncertain timing of disasters and the rigidity of the fiscal year. Further, the proceeds of this fund would be available for the proposed CASV's use for disaster preparedness, response, and relief activities. Also, the fund could support efforts to increase public participation in community service activities, research concerning volunteerism, and any type of assistance the volunteerism secretary sees fit to give to local nonprofit and governmental entities that utilize volunteers.

LAO Recommendation. The LAO recommends rejection of this proposal*.* In the event that CV receives such donation offers, it should *always* direct donors to worthy local and nonprofit efforts directly involved in disaster relief. If a donor insists on making a contribution to the state, the administration instead should direct that donor to the California Emergency Management Agency (CalEMA), which manages the existing Disaster Resistant Communities Fund. That fund may receive cash and other contributions pursuant to Section 8588.1 and 8588.2 of the Government Code. Subdivision (b)(2) of Section 8588.2 allows CalEMA to develop procedures to use privately donated materials to aid natural disaster victims and otherwise further the purposes of the fund. If the administration believes that these code sections should be amended to give CalEMA more flexibility to manage cash donations from individuals and others, it should propose changes to these existing code sections. It is unnecessary for the state to have two potentially competing donation funds involved in disaster relief and preparedness. Moreover, the language for the proposed CV Fund provides far too much authority to the executive branch to manage privately-solicited funds.

Staff Comment. As a threshold question, it is not clear to staff why the CV program needs the ability to accept donations, in cash or in-kind, when there are any number of established local and statewide non-profit entities, such as the Red Cross or Salvation Army, that serve this purpose. Further, as delineated in the LAO's recommendation, there is existing statutory authority within CalEMA's Disaster Resistant Communities Fund to accommodate any donations CV might receive which negates the need for this fund much less a continuous appropriation.

Staff Recommendation. DENY the requested trailer bill language to establish the continuously appropriated CaliforniaVolunteers Fund in the State Treasury.

VOTE: NO VOTE taken on proposed trailer due to lack of quorum. Item HELD OPEN.

0890 SECRETARY OF STATE

Department Overview. The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The SOS is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and perfecting security agreements. In addition, the SOS is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of documents and records having historical significance. All documents filed are a matter of public record and of historical importance. They are available through prescribed procedures for public review and to certify authenticity.

Budget Overview. The January Governor's Budget provides the SOS with 505 authorized positions and $172.1 million ($99.1 million GF). This is an increase of $86.3 million ($68.3 million GF, $16.6 million federal funds, and miscellaneous special funds and reimbursements) and no positions. The GF increase is attributable to a Governor's January Budget request to reimburse counties for election costs incurred to hold the May 19, 2009, Special Election (Issue 3 below); the federal funds increase is related to the Help America Vote Act (Issues 1 and 2 below).

Issues Proposed for Vote Only:

Issue 1 – Help America Vote Act Amended Spending Plan (BCP 2)

Governor's Budget Request. The Governor requests an increase in expenditure authority of $4.2 million (federal funds) to continue implementation of state mandates related to the Help America Vote Act (HAVA), including assistance for individuals with disabilities, voting systems testing/certification, voter education, performance measures, and administration.

Staff Comment. Funding was originally received in 2003, and a spending plan was required by the Legislature in 2004, and approved on April 14th, 2005. The SOS revises that spending plan annually to accurately reflect actual spending, and propose changes for future spending based on new funding and changes in expenditures.

Issue 2 – Help America Vote Act VoteCal (BCP 3)

Governor's Budget Request. Based on the Special Project Report approved on August 21, 2009, the Governor requests an increase in expenditure authority of $23 million (federal funds) to continue implementation of VoteCal, which is the HAVA-required centralized, interactive computerized voter registration database at the state level.

Staff Comment. Under federal HAVA requirements, VoteCal must coordinate electronically with systems similar to the one used by the Department of Motor Vehicles, the Department of Health Care Services, and the Department of Corrections and Rehabilitation for identification and list maintenance purposes. VoteCal must also provide a functional interface for counties. California has currently reached an interim solution to satisfy the requirements of HAVA, but must achieve a long-term solution per an agreement with the U.S. Department of Justice. VoteCal is that solution. The 2010-11 request is consistent with previous updates and continues to appropriately administer the HAVA required VoteCal system. Current cost estimates for completion of VoteCal are $51 million, which is more than $14 million below prior estimates. There is enough HAVA funding to fund the entire project, and cover at least the first few years of operation costs. It is difficult to determine when HAVA funding will run out, and over the past three years, California has been granted an additional $30 million that will be available upon submission of our revised implementation plan (currently being drafted).

Issue 3 – County Reimbursement for May 19, 2009 Special Election

Governor's Budget Request. The Governor requests $68.2 million to reimburse counties for election costs incurred to hold the May 19, 2009 Special Election. The counties requested these reimbursement funds last year, but given the fiscal climate, that state was unable to provide them. The Governor has included the request for the funding necessary to provide full reimbursement to the counties for costs incurred.

Staff Comment. The state has historically reimbursed the counties for election costs related to statewide mandated elections and special elections. The May 19, 2009 Special Election contained only legislatively-placed measures related to the state's fiscal crisis.

Issue 4 – Funding for Additional Measure on the November Statewide General Election Ballot (BCP 4)

Governor's Budget Request. The Governor requests an additional $715,000 (GF) for printing and mailing of Voter Information Guides (Guides) for the 2010 November Statewide General Election Ballot due to the inclusion of the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 (Water Bond) on the November Ballot.

Background. The Water Bond will require the SOS to include approximately 11 additional pages to explain the proposal to voters. The actual size of the Guide will not be known until 85 days prior to the election, so the SOS uses previous year's versions to estimate the size and cost of preparing, printing, and mailing the Guides. The average Guide is 160 pages, and this year's Guide was estimated to be 96-176 pages at the time the SOS submitted its budget request ($5.95 million GF). The Water Bond was placed on the ballot by the Legislature after the SOS submitted its request. Therefore, with the additional 11 pages attributed to the Water Bond, the SOS is concerned that its estimate will be insufficient to cover all preparation, printing, and mailing costs and is requesting the additional $715,000 to bring the total appropriation in 2010-11 for the Voter Information Guides to $6.665 million (GF).

Staff Comment. While it is possible that the final printing costs will be below current estimates, the SOS is required to have an adequate number of Guides printed, and would have to submit a deficiency request if full funding is not provided. In the alternate, if not all funds are needed to print the Guides, the funds cannot be used for any other purpose and would revert back to the GF. When this item was discussed in Assembly Budget Subcommittee No. 4, there was some concern about ensuring the reversion. In response, the LAO suggested the following provisional language to ensure the reversion of unspent funds to the GF for preparing, printing, and mailing of the Guides:

> *0890-001-0001 Provisions*
> *x. Of the funds appropriated in this item, $6,665,000 is available for preparing, printing, and mailing the state ballot pamphlet pursuant to Article 7 (commencing with Section 9080) of Chapter 1 of Division 9 of the Elections Code. Any unspent funds pursuant to this paragraph shall revert to the General Fund.*

Staff Recommendation. APPROVE BCPs #2 and #3; APPROVE BCP #4 along with additional provisional language to ensure reversion of any unspent funds to the General Fund; and APPROVE County Reimbursement for May 19, 2009 Special Election.

VOTE: 2-0 (Harman absent)

0911 CITIZENS REDISTRICTING INITIATIVE

Overview. Proposition 11, the Voters FIRST Act, was approved by the voters on the November 4, 2008 General Election Ballot. Proposition 11 changed the redistricting process by establishing a 14-member Citizens Redistricting Commission (Commission) to draw the new district boundaries for the State Assembly, State Senate, and Board of Equalization beginning with the 2010 Census. Proposition 11 specifies that a minimum of $3 million in funding be provided, or the amount appropriated for the previous redistricting plus CPI, whichever is greater. Figure 3 below illustrates the required schedule of actions of the State Auditor (Auditor), Legislature, Secretary of State (SOS) and Commission related to the adoption of the district boundaries, culminating in the adoption of final maps by September 15, 2011.

Figure 3

Entity	Required Action
Auditor	By January 1, 2010, initiate the application process
Auditor	Establish an Applicant Review Panel (ARP) to screen applicants
Auditor	By August 1, 2010, publicize names in the applicant pool
Auditor	By October 1, 2010, ARP to recommend 60 applicants to Legislature
Legislature	No later than November 15, 2010, exercise up to 24 “strikes”
Auditor	No later than November 20, 2010, randomly select first eight commissioners
Auditor	No later than December 31, 2010, first eight commissioners select the remaining six to establish the 14-member commission
SOS	Provide support functions to the Commission until its staff and offices are fully functional
Commission	By September 15, 2011 approve three final maps for Assembly, Senate, and Board of Equalization Districts

2009-10 Budget. Per the requirements of Proposition 11, the 2009-10 Budget appropriated $3 million (GF) for Proposition 11 implementation costs over a three year period for the Commission, Auditor, and SOS to implement the initiative. Of that $3 million, $500,000 was transferred to the Auditor in a Joint Legislative Budget Committee (JLBC) action in August 2009; $2.5 million remains unallocated as neither the SOS nor the Commission has requested funding nor has the Auditor presented an additional request to the JLBC.

Issue Proposed for Discussion / Vote:

Issue 1 – One-time Augmentation of $3 million for Proposition 11 Implementation Activities

Governor's Budget Request. The January Governor's Budget proposes a one-time augmentation of $3 million (GF), available for a three-year period, for Proposition 11 activities. This allocation is in addition to the $3 million (GF) appropriation in 2009-10, which was also over three years and of which $2.5 million (GF) remains unallocated.

Background. In the 2009-10 Budget, the Legislature appropriated $3 million to the Citizens Redistricting Commission budget line item and approved related budget provisional language that delineated the process by which the funds would be distributed to the Auditor, SOS, and Commission. Both the SOS and Commission are required to work with and submit requests with detailed cost estimates to the Department of Finance (DOF). For the Auditor to receive an allocation, the provisional language required the Auditor to submit a request to the JLBC and DOF. The JLBC would then provide notification that the Auditor's requested allocation, or a lesser amount, was needed and DOF would make the allocation.

In August 2009, the Auditor requested funds totaling $2.24 million for its responsibilities under Proposition 11. The JLBC approved $500,000 indicating the following: (1) the funding would enable a broad outreach campaign to ensure a diverse and qualified applicant pool; (2) while the Auditor would incur other costs to implement the application process, these costs could be funded through redirection of existing resources since the Auditor would utilize existing staff for many of the activities; and (3) should the Auditor need additional resources before this issue was revisited in spring 2009, the Auditor should draw from the State Audit Fund reserve.

Through March 31, 2010, the Auditor incurred costs of $866,000, exclusive of the $1.363 million Ogilvy Worldwide contract for media and outreach. Through January 31, 2011, the Auditor's total estimated cost for Proposition 11 implementation activities is $3.5 million including the Ogilvy contract. This estimated total cost also includes work by the Auditor to support the commissioners as they are selected in November and December of 2010, as well as when the full Commission begins its work in January 2011.

The Auditor's total cost is higher than originally estimated. At the time the estimates were made in August 2009, there were multiple unknowns, such as the number of initial applications it would receive; i.e., the estimate was based on receiving 10,000 applications, but the actual number exceeded 30,000. In addition, the Auditor did not anticipate the level of customer service type activities related to these 30,000 applicants that are driving a significant amount of its personnel services costs; i.e., responding to thousands of e-mails and telephone calls plus redacting personal and offensive information before posting the applications on-line.

The Auditor plans to absorb all of its Proposition 11 related costs beyond the $500,000 current year allocation. The Auditor indicates an ability to do this because of several one-time “cost savings” measures including: (1) the scope of work conducted for the federal compliance audit was modified as certain federal compliance audit activities were streamlined because of the preparedness reviews and early testing of controls conducted under the ARRA umbrella; (2) salary savings due to an unanticipated and larger number of employee separations and the intentional but temporary shut down of employee recruitment in 2009; and (3) self-initiated work the Auditor conducts under its high-risk authority was reduced to a minimum. These one-time cost saving measures will cover the Auditor’s outside expenses related to Prop 11, which are estimated at $2 million through January 2011. What remains are the “in-house” personnel services costs that the Auditor would incur regardless of the work its staff performs.

The Administration proposes that the additional $3 million be appropriated and DOF will allocate funds based on need and when the Commission and SOS submit the required detailed cost estimates in 2010-11. Once approved, DOF will complete an Executive Order to allocate funds to SOS and the Commission. This approach is consistent with the 2009-10 provisional language described above.

With regard to the SOS, an initial estimate of $384,000 (18 months funding – January 1, 2011 through June 30, 2011 plus full-year in 2011-12) has been provided. The estimate is based on overtime hours because the SOS indicates it will be using existing staffing resources. This estimate does not include SOS costs during November and December 2010 when the commissioners begin to be named. However, the SOS has indicated that it will begin requesting funding as soon as the Auditor names the first eight commissioners, which must occur no later than November 20, 2010. The SOS estimate also does not include any actual Commission costs, including office space which under the provisions of Proposition 11 the Governor is required to provide.

LAO Recommendation. The Commission will be the first and, so far, only example of an independent citizens commission attempting to redraw district boundaries. With no other example to consider, the LAO notes the inherent uncertainties in budgeting for the nine-month Commission. Proposition 11 supporters have indicated, however, that likely costs will include outreach, technical expertise, legal counsel knowledgeable in voting rights law, mapping software, various commissioner expenses and operation needs will be required for a successful effort. It is unclear if and how much more, beyond the $2.5 million remaining in the 2009-10 General Fund appropriation, will be required for the commission’s efforts.

Proposition 11 requires that at least $3 million (plus inflation from the last redistricting cycle completed after the 2000 Census) be provided for the redistricting work. The $3 million appropriated in the 2009-10 budget plus the anticipated $3 million to be spent by BSA from its State Audit Fund appropriations means that the Legislature already has met Proposition 11's minimum funding requirement. Proposition 11 also permits the Legislature to provide additional appropriations if it determines more is needed for the Commission to fulfill its duties.

The LAO recommends that the Legislature deny the administration's request for an additional $3 million in funding for the Commission. With $2.5 million of last year's GF appropriation still available, the Commission should be able to begin its work in the last six months of 2010-11. Once seated and more familiar with the costs needed to complete its work in 2011-12, the Commission may come to the Legislature and ask for additional funds next year as permitted by Proposition 11.

The LAO further recommends that the Legislature direct the Administration to begin planning for the Commission's needs. The Commission has a relatively short timeline to complete its work. As noted above, the SOS has responsibilities to help the Commission begin its deliberations. The LAO recommends that the Legislature direct the DOF and SOS to plan for the Commission's possible needs as it begins its work. This may include planning for normal department operations, coordinating initial searches for people who may be interested in staffing the commission, and gathering different options the commission may have in selecting appropriate mapping software.

Staff Comment. As noted above, the Auditor plans to absorb all of its Proposition 11 related costs beyond the $500,000 2009-10 allocation. Therefore, $2.5 million of the 2009-10 appropriation remains unspent and can be used to cover the yet-to-be-determined 2010-11 costs of the SOS to support the Commission as it transitions to having its staff and offices finalized and for the Commission itself when it is fully operational. Staff notes that the efficient, and at times strategic, one-time cost saving measures undertaken by the Auditor do not appear to have jeopardized the quality of the work the Auditor produces. However, staff also notes that the Auditor has undertaken these measures at some cost to the operation of its office, including temporarily shutting down employee recruiting and reducing the amount of high risk audit work that was undertaken.

The Auditor is also proposing to absorb its costs to support the commissioners (not costs incurred by the Commission; i.e., travel, per diem, etc.) during the transition period from November 2010 through January 2011. As noted above, the SOS is also indicating it would be requesting funding for these same support functions during this same time period. This duplication should be resolved as it is unnecessary. Staff also notes that it does not appear the SOS has used a realistic approach in developing its estimate. The SOS is requesting half-year funding in 2010-11 and a full year of funding in 2011-12. But under the terms of Proposition

11, the SOS is only to provide transitional support to the Commission and the Commission is required to complete its work and finalize the maps by September 15, 2011. Therefore, it is unclear how the Commission would need the transitional support of the SOS until June 30, 2012. A more realistic timeframe would be through the end of March 2011, as that is when the 2010 census data becomes available and the Commission would have to be fully operational in order to complete its work by the September 15, 2011 deadline. Further, for the Commission to be successful, some advance thought and planning by DOF and the SOS about what the Commission might need, particularly for major decisions like staffing, hardware/software, basic office space, is warranted. Ideally, this effort by DOF and SOS should result in a proposal prepared for the Commission's consideration to aid its effort to become fully operational as soon as possible after its formation.

The key question before the subcommittee is to determine how much more the Commission (and SOS) need in 2010-11 to do its work beyond the $2.5 million that remains unspent from the 2009-10 appropriation. Staff notes that it would be an entirely reasonable course of action to wait until next year's budget process to determine how much more the Commission will need given that there is $2.5 million available for the six-month period from January 1, 2011 to June 30, 2011. While there is a chance that the Commission (and SOS) would exhaust the entirety of the $2.5 million before June 30, 2011, if that were to occur, the Commission could pursue additional funding through a deficiency notice process. This conservative approach would also prevent an over appropriation for Proposition 11 costs; this is an important consideration as the funding provided to this item will create a permanent baseline funding amount, so it is crucial to avoid over-appropriation while still ensuring the effort is adequately funded.

Staff Recommendation. HOLD OPEN to allow time for coordination between the BSA and SOS as to the support needs of the Commission during the transition period from November 2010 through January 2011. Further, and per the LAO recommendation, direct DOF and SOS to plan for the Commission's possible needs as it begins its work, particularly for major decisions such as staffing, hardware/software, basic office space.

REQUEST HELD OPEN

ARRA AMERICAN RECOVERY AND REINVESTMENT ACT OVERSIGHT ENTITIES

Background. On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA), a $787 billion plan to create jobs, stimulate the economy, and make improvements to the nation's infrastructure. ARRA provides federal funding for a wide range of federal, state, and local programs as well as tax relief for qualified businesses and individuals. ARRA also created new requirements for state-level oversight and reporting of stimulus dollars provided to state entities. In a May 2009 circular, the federal Office of Management and Budget (OMB) represented that 0.5 percent of total ARRA funds would be made available for these state-level oversight and reporting duties.

California's ARRA accountability framework is comprised of four organizational components: the California Recovery Task Force (CRTF), the ARRA Inspector General (ARRA IG), the Bureau of State Audits (BSA), and the State Controller's Office (SCO). Both the BSA and SCO were pre-existing entities, while the CRTF and ARRA IG were established via Executive Order by the Governor in spring 2009. For the 2009-10 Budget Year, the CRTF's budget was run through the Department of Finance's (DOF) budget item while the ARRA IG's budget was run through the Office of Planning and Research's (OPR) budget item. For 2010-11, the Governor's January Budget contains four separate budget act items, for the BSA, the SCO, the DOF (CRTF's budget), and the proposed ARRA IG.

2009-10 Budget Overview. The 2009-10 Budget, and more specifically Control Section 8.55, authorized federal oversight spending of $1.6 million by the BSA as the central, independent auditing and oversight agency required under various provisions of ARRA. The 2009-10 Budget also authorized oversight spending of $4.1 million to the DOF to be allocated as follows: (1) $500,000 to DOF for its Office of State Audits and Evaluations (OSAE); (2) $500,000 to support the ARRA IG; (3) $200,000 for operating expenses and equipment; (4) $400,000 to support the CRTF; and (5) $2.5 million to the CRTF for a centralized statewide database to catalogue ARRA spending.

On January 11, 2010, and as required by CS 8.55, DOF submitted to the Legislature a report that described the difficulty in recovering the full amount of federal oversight funds as promised by OMB, noting that available federal funds were likely to only be about five percent of the full 0.5 percent level described in May 2009. As allowed under CS 8.55, the DOF also requested from the Joint Legislative Budget Committee (JLBC) authority to expend oversight activity funds above the amounts included in the 2009-10 Budget. Not including funding for the BSA, the additional spending authority for oversight activities included: (1) $1.9 million for the SCO's proposed activities; (2) $1.1 million for the CRTF; and (3) $1.1 million for the ARRA IG. In its February 25, 2010, response, the JLBC did not concur with much of the request. Instead, and consistent with the policy laid out in CS 8.55, the JLBC suggested the Administration move toward a policy of spending no more than $7 million per fiscal year for ARRA oversight activities which should allow all, or nearly all, of the oversight activities to be supported by federal funds. Figure 4 below illustrates the 2009-10 Budget and requested 2010-11 Budget for the four entities; the 2010-11 requests are discussed further below.

Figure 4

Entity		2009-10		2010-11
California Recovery Act Task Force (CRTF)		**$3.969 million**		**$3.992 million**
CRTF Staff		*(1,131,000 million)*		*(1.680 million)*
Office of Chief Information Officer		*(2.586 million)*		*(1.442 million)*
Office of State Audits and Evaluations (DOF)		*(147,000)*		*(808,000)*
Fiscal System Consulting Unit (DOF)		*(105,000)*		*(105,000)*
ARRA Inspector General (IG)		**$898,000**		**$3.388 million**
IG Staff		*(649,000)*		*(2.796 million)*
OSAE		*(249,000)*		*(592,000)*
State Auditor/Bureau of State Audits		**$1.6 million***		**$713,000**
State Controller's Office (SCO)		**$0**		**$1.311 million**
TOTAL		**$6.467 million**		**$9.404 million**

Issues Proposed for Discussion / Vote:

Issue 1 – ARRA Oversight Entities: 2010-11 Budget Requests

A. 8860 Department of Finance – California Recovery Task Force ARRA Funds Oversight (CRTF-01)

Governor's Budget Request. The Governor requests continued expenditure authority of $3.992 million (Central Services Cost Recovery Fund) to support the California Recovery Task Force (CRTF) and its general oversight of the implementation and accountability of ARRA funds received by state agencies. This request includes $1.4 million for the Office of the Chief Information Officer (OCIO) spending on the state's required centralized database and $808,000 for OSAE assistance to departments receiving ARRA funds.

B. 0840 State Controller's Office – ARRA Workload (April Finance Letter)

Governor's Budget Request. In an April Finance Letter, the Governor requests $1.311 million (Central Services Cost Recovery Fund) for the State Controller's

Office to perform enhanced claim audits, additional local government and single audit report reviews, and new local government audits in response to ARRA.

C. 8855 Bureau of State Audits – ARRA Workload

Governor's Budget Request. The January Governor's Budget includes $713,000 for the Bureau of State Audits' ARRA workload. The Administration acknowledges that this figure, however, was only for the first six months of the 2010-11 Budget Year. The Bureau of State Audits' full year costs related to ARRA is $1.2 million, an increase of $500,000 for the remainder of 2010-11.

D. 0595 ARRA Inspector General – ARRA Funds Administration Support (BCP #1)

Governor's Budget Request. The Governor requests one year expenditure authority of $3.388 million (Central Services Cost Recovery Fund) and 21 positions for the ARRA IG to ensure the integrity, accountability, and transparency required under ARRA. At present, the ARRA IG is focusing its work on short-term reviews directed towards detecting and deterring fraud, waste, and abuse at the sub-recipient level. This request includes $2.8 million for the ARRA IG staff and $600,000 for contracted work with OSAE.

LAO Recommendation. Under the Governor's requests, total ARRA oversight and reporting spending in 2010-11 likely would exceed available federal resources by about $2 million to $3 million. This excess of spending would have to be paid from the GF. Because the Governor's proposed ARRA oversight and reporting program exceeds federal requirements, this GF spending is unnecessary. Moreover, should the state budget all available federal ARRA oversight dollars now, no federal funding would be available later for: (1) unexpected, critical ARRA auditing and compliance requirements for BSA and other departments in 2010-11 or (2) ARRA reporting requirements in 2011-12 and beyond (assuming the federal government allows use of federal funds for these requirements after the end of the federal government's 2010-11 fiscal year). The LAO strongly recommends, therefore, that the Legislature sharply reduce the Governor's proposed ARRA oversight and reporting spending to well within the amount likely to be covered by available federal funds in 2010-11 as follows:

1. CRTF: Reduce spending for the CRTF by $100,000 to reflect updated administration estimates of staffing costs.
2. ARRA IG: The Governor proposes a huge increase in the ARRA IG's budget: from $898,000 in 2009-10 (consisting of $649,000 for the ARRA IG staff and $249,000 for work with OSAE) to $3.4 million in 2010-11 (consisting of $2.8 million for staff and $600,000 for OSAE work). The LAO recommends that the ARRA IG's OSAE budget be eliminated in 2010-11 and that the office's staff budget be set at $800,000, a $151,000 increase over 2009-10. Further, the LAO recommends no statutory action to

continue the work of the existing ARRA IG office. Established by executive order and not through a codified statutory action of the Legislature, the office currently is housed for budgetary purposes in OPR, which is proposed to be eliminated. The LAO suggests that the ARRA IG be housed in the Governor's Office in 2010-11, which is appropriate given that the ARRA IG was created and appointed solely through gubernatorial action.

With regard to the BSA, the Governor's budget proposal included BSA spending only through December 2010. More recent estimates indicate that an additional $500,000 needs to be budgeted to cover BSA's ARRA-related activities through the end of 2010-11. The LAO recommends this augmentation.

Finally, the LAO recommends budgeting for an ARRA "Oversight Reserve." The above recommendations would reduce statewide ARRA oversight and reporting spending below the Governor's requests by about $2.2 million to $7.2 million in 2010-11. This would leave about $300,000 of potentially available federal funding for other ARRA oversight and reporting activities in 2010-11 and beyond, to the extent permitted by the federal government. In effect, this would be a "reserve fund" for future ARRA oversight and reporting requirements. The LAO also recommends that the Legislature include provisional language in the DOF and BSA line items to authorize those entities to request from the JLBC the ability to spend all or a part of the reserve funds in 2010-11 if the funds: (1) are certified by DOF as likely to be available from the federal government and (2) fulfill a mandatory ARRA oversight, auditing, or reporting need. With any request from DOF or BSA, DOF should be required to report to the Legislature the latest guidance on ARRA oversight and reporting requirements after 2010-11 and whether the federal government will permit the use of any funds unexpended in 2010-11 for those requirements.

Staff Comment. In its February 25, 2009, letter, the JLBC laid out a clear policy – the state should spend no more than $7 million per fiscal year for ARRA oversight activities to allow all, or nearly all, of the costs to be supported by federal funds. The total of the above four requests, however, is $9.4 million, nearly $2.5 million above the stated goal and expected level of federal reimbursement requiring the GF to serve as a backfill. This funding level is also indicative of the fact that the Governor's proposed ARRA oversight and reporting program exceeds federal requirements.

With regard to SCO's request, staff notes that the SCO's 2010-11 request responds to the February 2009 JLBC letter. That letter denied the SCO's request for funding in 2009-10 because, per the provisions of CS 8.55, the SCO was not an eligible recipient for such funding. However, in denying that funding, the JLBC recognized that the SCO has ARRA oversight responsibilities, including review of additional local government mandated single audit reports and expenditure claim reviews. Therefore, the JLBC suggested that the SCO may wish to request funding for its proposed activities during the regular 2010-11 budget hearing process. The Finance Letter before the Subcommittee is that narrowed request on the portion of ARRA oversight for which the SCO has responsibility.

Similarly, the BSA's 2010-11 request is solely related to work necessary to complete the mandated annual single federal compliance audit, including interim testing and reporting, audit work for existing major federal programs that will receive ARRA funding and have supplemental single audit requirements, and auditing the 1512 reports ARRA requires states to submit each quarter. Due to the timing of the budget development process, however, the Governor's January Budget only includes half-year funding for the BSA. Therefore, for the subcommittee to provide the BSA with a full year's funding, it must provide a technical augmentation of $500,000 to ensure the BSA is provided the full amount of funding needed in 2010-11 to complete its ARRA related work.

The 2010-11 requests for the CRTF and ARRA IG cumulatively represent 78 percent of the total requested; 42 percent and 36 percent, respectively. Staff notes, however, that 36 percent of the CRTF request is actually a pass through to the Office of Chief Information Officer for purposes of the federally-required centralized database, which brings the cost of the CRTF to 27 percent of the total request. As noted above, included in that figure is substantive work by the OSAE that is crucial to the CRTF's ARRA oversight responsibilities. Staff notes, however, that the 2010-11 CRTF request contains a small amount of personnel funding ($100,000) that was denied by the JLBC in 2009-10. The Administration has agreed that this reduction should be carried forward into 2010-11.

With regard to the ARRA IG, the Administration has made clear that the request is one year in nature; i.e., only for 2010-11. This is consistent with the stated purpose of the ARRA IG – it was established strictly for ARRA oversight. Therefore, it is logical that this request is for one year only, as ARRA dollars cease September 30, 2011. Yet, the 2010-11 request represents a large increase in funding as compared to 2009-10. Staff notes that this level of staffing and funding is disproportionate in comparison to the other ARRA oversight entities and the value-added by their work. The ARRA IG request also has some measure of overlap with the CRTF request related to the services of OSAE.

Staff Recommendation. APPROVE the LAO recommendation, thereby reducing the Governor's 2010-11 ARRA Oversight expenditure request by $2.2 million, as detailed above, including the adoption of the provisional language related to an ARRA Oversight Reserve. Note, with regard to the ARRA IG, its "budgetary home" (i.e., Governor's Office budget or. OPR's budget) will be a conforming action dependent on the Subcommittee's action on the Governor's request to eliminate OPR.

VOTE: 2-0 (Harman absent)

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, April 29, 2010
11:00 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

PART A

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

Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	California Emergency Management Agency (0690)			
1	Tsunami Program	$792,000	Federal	Approve
2	Earthquake Hazard Reduction Program	$639,000	Federal	Approve
3	Antiterrorism Fund – April Finance Letter	$2,000,000	Antiterrorism Fund	Approve

Vote Only Items – Issue Descriptions

California Emergency Management Agency (0690)

Issue 1 – Tsunami Program
The CalEMA requests an increase of $245,000 in Federal Trust Fund authority for the Earthquake and Tsunami Program to reflect increased receipt of federal funds for this program. The CalEMA describes the purpose of the tsunami component of this program as including tsunami inundation modeling and mapping, planning and technical assistance to local jurisdictions in preparing plans for tsunami warning and response, public education about the tsunami hazard, and participation in the federal Tsunami Ready Program sponsored by National Oceanic and Atmospheric Administration's National Weather Service.

Issue 2 – Earthquake Hazard Reduction Program
The CalEMA requests an increase of $639,000 in Federal Trust Fund authority for earthquake mitigation activities, including assessment of state buildings for seismic risk, creating an inventory of older, nonductile concrete buildings in the state that are at higher risk for damage in an earthquake, and providing training in support of the California Earthquake Authority Household Rebate Program which provides rebates for homeowners doing earthquake mitigation on their homes.

Issue 3 – Antiterrorism Fund – April Finance Letter
The CalEMA requests $2 million from the Antiterrorism Fund to provide reimbursements to local agencies for antiterrorism training and supplemental funding to the State Terrorism Threat Assessment System (STTAS). Specifically, CalEMA proposes to allocate $1 million evenly to the Commission on Peace Officer Standards and Training (POST) and the California Fire Fighter Joint Apprenticeship Center for training California first responders on how to prepare for, prevent, and respond to a terrorist attack. The remaining $1 million will be evenly allocated to California's STTAS five fusion centers which are a combination of federal, state, and local first responders and law enforcement personnel who support the gathering, processing, analysis, and dissemination of information regarding potential threats to the public safety, including terrorist threats. The Antiterrorism Fund was created in 2002 from legislation (AB 1759 – Wesson, Chapter 38, Statutes of 2002) that required the Department of Motor Vehicles to issue special license plates memorializing individuals killed or injured during the terrorist attacks of September 11, 2001. Eighty-five percent of the revenue from these plates are deposited into the Antiterrorism Fund, half of which is administered by CalEMA to support antiterrorism activities including training, prevention, detection, and response.

California Emergency Management Agency (0690)

Departmental Overview and Mission. 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 also provides financial and technical assistance to local governments, state agencies, and the private sector for public safety and victim services.

Budget Overview. The department has a 2010-11 budget of $1.4 billion, more than $1 billion of which is funded through federal funds. The department's budget includes about $125 million from the General Fund. The CalEMA has about 620 staff positions.

Issue 1 – Proposition 1B Projects – Oversight Issue

Background. Proposition 1B was approved by voters in 2006 and authorized the state to sell about $20 billion of general obligation bonds to fund various transportation projects. Of this total, $1.1 billion was provided for transit security ($1 billion) and port security ($100 million).

- ***Transit Security ($1 billion).*** Proposition 1B created the Transit System Safety, Security, and Disaster Response Account and provided $1 billion for this account. The purpose of the account is to provide resources for capital projects that provide increased protection against security and safety threats and to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster.

- ***Port Security ($100 million).*** Proposition 1B also provided $100 million to the Office of Emergency Services (predecessor to CalEMA) to be allocated as grants for port, harbor, and ferry terminal security improvement projects. Under the proposition, the grants were to be used only for publicly owned facilities and could be used for such projects as video surveillance equipment, explosive, radiation, and chemical detection technology, and vehicle screening equipment. The proposition requires the department to report to the Legislature on March 1 of each year on the manner in which these funds were expended during the fiscal year.

The CalEMA is the administering agency for these programs. As such, the department has responsibility for reviewing and approving project proposals, providing technical assistance to funding recipients, processing reimbursement requests, and verifying project progress and completion. Some of the funding programs provide payments on a reimbursement basis. This means that funding is provided when the recipient submits a claim to CalEMA demonstrating project expenditures.

The CalEMA reports that as of April 20, 2010, $297 million of Prop 1B funding has been appropriated, and $126 million has expended to date. In addition, $100 million was appropriated in the 2009-10 Budget Act for the transit program. However, the CalEMA reports that the award process for the current year appropriation has not yet been completed. The following table summarizes those allocations and expenditures made to date.

Proposition 1B: CalEMA Administered Program Expenditures
(In millions of dollars)

	Allotment		Payment		Balance	
2007-08	**$**	**140.0**	**$**	**84.4**	**$**	**55.6**
Transit (6061)	***$***	***100.0***	***$***	***83.3***	***$***	***16.7***
Heavy Rail	$	15.0	$	0.9	$	14.1
Mass Transit	$	60.0	$	57.4	$	2.6
Waterborne	$	25.0	$	25.0	$	-
Port (6073)	***$***	***40.0***	***$***	***1.0***	***$***	***39.0***
2008-09	**$**	**157.0**	**$**	**43.0**	**$**	**114.0**
Transit (6061)	***$***	***100.0***	***$***	***43.0***	***$***	***57.0***
Heavy Rail	$	15.0	$	4.5	$	10.5
Mass Transit	$	60.0	$	13.5	$	46.5
Waterborne	$	25.0	$	25.0	$	-
Port (6073)	***$***	***57.0***	***$***	***-***	***$***	***57.0***
Totals	**$**	**297.0**	**$**	**127.4**	**$**	**169.6**
Transit	*$*	*200.0*	*$*	*126.3*	*$*	*73.7*
Port	*$*	*97.0*	*$*	*1.0*	*$*	*96.0*

** Note: The 2009-10 Budget Act appropriates an additional $100 million for transit security that has not yet been awarded.*

Staff Comments. To date, about 43 percent of the 2007-08 and 2008-09 budget appropriations for Proposition 1B projects administered by CalEMA have been expended. The department reports that less than half of the allotments have been expended to date because (1) many projects are funded on a reimbursement basis, and (2) these are primarily capital projects that are still in the planning and evaluation, rather than construction, phases.

The California Department of Transportation has a document on its website (http://www.caltrans.ca.gov/hq/transprog/ibond/tube_feb2010.pdf) that demonstrates the progress the agencies responsible for allocating Prop 1B funding have made to date in allocating Prop 1B funds. As of February 26, 2010, $7.2 billion of the $12.6 billion (57 percent) appropriated by the Legislature to date has been allocated by the administrative agencies statewide. According to this report, CalEMA's allocation rate is lower at 35 percent.

In reviewing this proposal, the committee may wish to address the following questions to the Board.

- What types of projects are being undertaken with these funds?

- Why has only $1 million of the $97 million appropriated for port security been expended in three years?

- Why has CalEMA allocated a significantly lower percentage of appropriated Prop 1B funds than other administering agencies?

- When will CalEMA have an allocation plan for the 2009-10 appropriation of $100 million for transit security?

Issue 2 – ARRA Stimulus Funds – Oversight Issue

Background. The CalEMA is the state administering agency for three federal stimulus grants provided under the American Recovery and Reinvestment Act (ARRA). These three grant programs total about $150 million for public safety and victims assistance related purposes. The three programs are described below.

- ***Byrne/JAG ($135 million).*** The Edward Byrne Justice Assistance Grant (Byrne/JAG) Program is administered by the federal Bureau of Justice Assistance and provides states, tribes, and local jurisdictions with funding to support a range of program areas including law enforcement, prosecution and court, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives.

- ***Violence Against Women Act ($12.0 million).*** The Violence Against Women Act (VAWA) was adopted by Congress in 1994 and is designed to improve criminal justice responses to domestic violence, sexual assault, and stalking, as well as to increase the availability of services to victims of these crimes.

- ***Victims of Crime Act ($2.8 million).*** The Victims of Crime Act (VOCA) was adopted by Congress in 1984 and provides funding to improve the accessibility and quality of services for victims of crime. Funds go to support victim services and compensation programs, including crisis intervention, counseling, emergency shelters, and victims advocacy.

In the 2009-10 Budget Act, the Legislature specified how the $135 million in Byrne/JAG ARRA funds were to be allocated among different programs. Most of the funding was provided for three programs designed to reduce crime and recidivism. Specifically, almost three-quarters of the funding was provided for substance abuse treatment ($45 million), more effective, evidence-based county probation programs ($45 million), and reentry courts for parole violators ($10 million). The remaining $35 million was provided for anti-drug abuse and methamphetamine enforcement, human and firearm trafficking, gang intelligence, victim notification, and district attorney training programs. The table below summarizes the amount of funding provided for each of these program areas.

In January, the CalEMA testified before the budget committee that $3.4 million of the total $150 million in ARRA funds had been reimbursed by CalEMA to local recipients at that time. The department has provided the committee an update that as of April 13, 2010, $5.5 million has been expended by the agency. The table below shows the ARRA programs, the total funding provided for each, and the amounts expended as of January as well as the most recent update provided by the department.

Comparison of CalEMA ARRA Expenditures as of January and April, 2010
(In millions of dollars)

Program	ARRA Award	Expenditures (1/19/10)	Expenditures (4/13/10)
Byrne/JAG	$135.2	$0	$0
Substance abuse treatment	$45.0	$0	$0
Evidence-based probation	$45.0	$0	$0
Anti-drug abuse enforcement	$19.8	$0	$0
Reentry courts	$10.0	$0	$0
Methamphetamine enforcement	$4.5	$0	$0
Human trafficking	$3.8	$0	$0
Firearm trafficking	$3.3	$0	$0
Gang intelligence	$2.1	$0	$0
Victim notification	$1.5	$0	$0
District attorney training	$0.2	$0	$0
VAWA	$12.0	$3.0	$4.2
VOCA	$2.8	$0.4	$1.2
Totals	***$150.0***	***$3.4***	***$5.5***

The CalEMA reports that almost all of these programs are in the award stage even if expenditures have not yet been made. The exceptions are the anti-human trafficking task force and reentry court programs which are currently in the competitive review process. Also, twenty counties have requested and been granted time extensions for the evidence-based probation program.

The CalEMA reports that only a small share of the ARRA funds have been distributed to locals to date primarily because (1) a couple of the programs – specifically, the probation and reentry court programs – are new and have taken some time to develop program guidelines and application criteria, (2) CalEMA established the programs as two-year expenditure programs, and (3) the ARRA dollars are provided as reimbursements, meaning that local recipients have to incur costs before receiving the federal funding from CalEMA.

The CalEMA also reports that the Bureau of State Audits (BSA) is currently conducting an audit of its administration of ARRA funds. According to CalEMA, the BSA audit will be released sometime in the next several weeks.

Staff Comments. It is disappointing that less than 4 percent of the stimulus dollars have been expended ten months into the fiscal year. While several of the programs are new efforts that have legitimately taken some time to develop, others are expansion of existing programs, such as the funding for substance abuse treatment and anti-drug abuse enforcement. Ongoing delays getting these funds to local recipients necessarily delays any benefit of the stimulus package.

Annual Byrne/JAG Allocations. In addition to the ARRA Byrne/JAG funds, the CalEMA also received about $34 million in its annual Byrne/JAG allocation. The process for allocating these annual federal funds differs from the process the Legislature used to allocate the ARRA Byrne/JAG funds. Current law (Penal Code Section 13813) provides the California Council on Criminal Justice (CCCJ) with the authority to determine the allocation plan for federal grants. The CalEMA staffs CCCJ and provides a recommended allocation plan which CCCJ can approve or revise. The CCCJ is made up of 37 members representing a broad array of criminal justice stakeholders.

As described above, the Byrne/JAG funding can be used for a broad array of criminal justice purposes with at least 29 different allowable purpose areas identified. Other states have used Byrne/JAG funding for a wide variety of purposes, with many states employing a mix of enforcement, prevention, and treatment efforts targeting different types of offenders and crimes. For example, several states have used these funds for programs including drug and mental health courts, reentry initiatives, domestic violence programs, community policing, school-based prevention programs, law enforcement technology upgrades, crime labs and analysis, and drug task forces.

The CalEMA-recommended and CCCJ-approved plan for the annual Byrne/JAG allocation provided almost all of the funding to law enforcement agencies for enforcement of drug crimes in 2009-10. The figure below shows how the $34 million in annual Byrne/JAG funding was allocated in the current year.

Allocation of Annual Byrne/JAG Federal Funds 2009-10

Program	Purpose	Allocation
Anti-drug abuse enforcement	Combat manufacturing, distribution, and drug sales through interagency coordination	$25,663,716
Crackdown multi-community task force	Combat inter-jurisdictional and intra-state drug trafficking	$3,900,000
Marijuana suppression	Enforce state and local controlled substances laws	$2,200,000
Drug endangered children training	Training to coordinate efforts of law enforcement and child protective services to provide appropriate response when children found in home with drugs	$990,000
California public safety procurement	Obtain equipment and land for counter-drug, homeland security, and emergency response activities	$745,869
California courts protective order registry	Development of automated system to track all protective and restraining orders	$610,369
Campaign against marijuana planting (CAMP)	Support Department of Justice-led task force to eradicate marijuana cultivation and trafficking	$100,000
Total		***$34,209,954***

The CalEMA provides an annual report to the Legislature which identifies all of the public safety and victims-related grants that it allocates. The report identifies the amounts allocated to individual recipients, as well as aggregates outcome measures associated with the grant. The table below includes some of the key performance statistics collected by CalEMA for its Byrne/JAG funded programs. (The statistics reflect 2008-09 metrics, the most recent data available.)

2008-09 Byrne/JAG Performance Statistics

Program	**Key Performance Statistics**
Anti-drug abuse enforcement	Convictions – 3,408 Labs discovered – 159 Cocaine/methamphetamines/heroin seized – 6,767 lbs Processed marijuana seized – 167,604 lbs
Crackdown multi-community task force	Special agents assigned – 80 Weapons seized – 489 Cash and property seized - $13,439,698
Marijuana suppression	None – no funding in 2008-9
Drug endangered children training	None – one-time funding in 2009-10
California public safety procurement	Law enforcement agencies enrolled – 363 Equipment items transferred or purchased – 90,751
California courts protective order registry	Courts participating - 20
Campaign against marijuana planting	Raids on marijuana plantations – 665 Marijuana plants seized – 4,463,917

Taken from Joint Legislative Budget Committee Report*, January 2010* www.oes.ca.gov

In reviewing CalEMA's performance administering the ARRA funds, the committee may wish to address the following questions to the department.

- What efforts has CalEMA made to accelerate the release of federal funds since it last testified in front of the committee in January? What can the department do to accelerate the release of federal stimulus funds going forward?

- How much of the stimulus funds will be expended by CalEMA by the end of the current fiscal year? When will these stimulus funds be fully out of the door?

- Given wide range of allowed Byrne/JAG uses, how does CalEMA prioritize what types of programs should receive funding on an annual basis?

- How does the department determine what are the "right" metrics with which to measure the performance of each Byrne/JAG program? Are these the same metrics that will be used to evaluate the ARRA programs?

- What is the status of CalEMA's allocation plan for the 2010-11 Byrne/JAG program?

Issue 3 – Federal JAG Interest

Background. The CalEMA received $135.6 million in federal American Recovery and Reinvestment Act (ARRA) funds for the Justice Assistance Grant (Byrne/JAG) program in the 2009 stimulus package. The Legislature designated $592,000 of this funding for CalEMA to retain for administration of the grant on a one-time basis.

Governor's Budget Request. The CalEMA requests $800,000 in increased Federal Trust Fund expenditure authority to administer the ARRA Byrne/JAG funds for the next two years. The proposal does not create new positions but would provide funding for temporary help. The amount requested will come from the interest earned on the Byrne/JAG ARRA dollars.

	2010-11	2011-12
Federal Trust Fund	$800,000	$800,000
PY's	0.0	0.0

LAO Recommendation. The LAO notes that CalEMA has not been able to provide sufficient workload information to justify the requested funding increase. Thus, the LAO recommends the Legislature provide the same level of administrative funding as in the current year. Specifically, the LAO recommends reducing the Governor's budget request by $208,000 (from $800,000 to $592,000), which would "free up" additional funds for local assistance grants.

Staff Comments. The CalEMA retains responsibility for ongoing reporting to the Federal government regarding administration of the Byrne/JAG funding, as well as reporting of program outcomes. Based on these responsibilities, it is appropriate that the department have some ongoing funding for administration.

However, it is notable that this funding is available because most of the stimulus dollars have remained at the state level accruing interest, and only a small share of the ARRA dollars have yet to be provided to local recipients.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- How was the $592,000 provided for state operations in the current year used?

- Does the department believe it can successfully administer these grants in the budget year at the level of funding recommended by the LAO - $592,000?

Staff Recommendation. Adopt LAO recommendation of $592,000 in additional federal fund authority for administering the ARRA Byrne/JAG program.

Issue 4 – Forensic Science Improvement Act

Background. The federal government provides states with grants under the Coverdell Forensic Science Improvement Act (FSIA). The purpose of this program is to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, as well as reduce forensic science backlogs. In recent years, the CalEMA has awarded these federal funds to the State Department of Justice and 17 crime laboratories operated by local governments. These funds have been used for efforts related to accrediting crime labs, improving the quality of services provided, reducing backlogs, and providing education and training opportunities.

The CalEMA currently has budget authority for $1.2 million ($1.1 million for local assistance and $93,000 for state operations) for this program.

Governor's Budget Request. The Governor's January budget requests an increase of $608,000 in Federal Trust Fund authority for the FSIA due to an anticipated increase in federal funds from $1.2 million to $1.8 million.

Since the release of the Governor's budget in January, the CalEMA has received notice from the federal government that its total allotment of FSIA funds is likely to be $2.7 million, significantly higher than previously anticipated. Based on this new information, CalEMA is requesting that the committee consider approving a higher level of expenditure authority - $1.5 million – that would allow the department to expend the full amount of anticipated federal funds. The revised request provides about 12 percent of this increase for state operations for administering the grants.

	2010-11 January Request	**2010-11 Revised Request**
Federal Trust Fund – local assistance	$608,000	$1,316,000
Federal Trust Fund – state operations	$0	$176,000
PY's	0.0	0.0

Staff Comments. Increasing the federal fund authority level is primarily a technical budgeting action to allow the department to fully expend the federal funds it receives. The key question is whether the committee believes the share of the additional funding going to state operations is appropriate and necessary for administration of the grant. Staff notes that the existing allocation for this program provides 8 percent of the funding for state operations, and the department has not provided an explanation for why this allocation rate would be insufficient for the additional funding being provided by the federal government. The proposal by CalEMA would increase the overall share of FSIA funding provided for state operations from 8 percent to 10 percent.

In reviewing the department's budget, it appears that, overall, about 5 percent of its federal grant funding is used for state operations for grant administration.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- Why is the department requesting that 12 percent of the additional federal funding be provided for state administration when the current rate is 8 percent? For example, did the federal government change the responsibilities related to grant management of this program?

- How does the administration determine what the "right" amount of a federal grant should be used for state operations for purposes of overseeing the grant versus local assistance to the grant recipients?

Staff Recommendation. Approve increased federal fund authority of $119,000 for state operations and $1,373,000 for local assistance. This maintains the existing rate of 8 percent of the program funds going for state operations, as well as provides an additional $57,000 for forensic labs compared to the administration's revised request.

Issue 5 – Equality in Prevention and Services for Domestic Abuse Program

Background. The purpose of the Equality in Prevention Services for Domestic Abuse (EPSDA) program is to provide local assistance funding to existing domestic violence service providers to members of the gay, lesbian, bi-sexual, and transgender community who are victims of domestic violence. The program is funded by a $23 fee for same sex couples who register as domestic partners.

Governor's Budget Request. The CalEMA requests a reduction of $75,000 in expenditure authority for the Equality in Prevention Services for Domestic Abuse (EPSDA) program to match anticipated current year revenue levels. This reduction includes a $50,000 reduction in local assistance and a $25,000 reduction in state operations for administration of the program. In 2007-08 and 2008-09, program funding was supplemented with additional funds from the Restitution Fund.

	2010-11
EPSDA Fund – local assistance	-$50,000
EPSDA Fund – state operations	-$25,000
PY's	0.0

Staff Comments. Staff notes that the proposed funding reduction would result in a total of $108,000 in spending authority for this program in 2010-11. This includes $38,000 (35 percent) for state operations and $70,000 (65 percent) for local assistance. This is an unusually high percentage of grant funding to be retained for state operations and administration.

In reviewing this proposal, the committee may wish to address the following questions to the department.

- Why is the department requesting that 35 percent of this grant program be retained for administrative oversight?

- Would the department still be able to successfully administer this program with a more typical state operations rate of 5-10 percent?

Staff Recommendation. Approve total reduction of $75,000 in expenditure authority to be consistent with anticipated revenues, but modify allocation of reduction with -$53,000 for state operations and -$22,000 for local assistance. This will result in just under 10 percent retained for state operations ($10,000), and about 90 percent for local assistance going to domestic violence services ($98,000). This action would provide $28,000 more for direct domestic violence services than would have been provided under the Governor's budget proposal.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Thursday, April 29, 2010
11:00 a.m. (or upon adjournment of session)
Room 112

Consultant: Seija Virtanen

Part B

Item	Department
0510	Secretary for State and Consumer Services
1100	California Science Center
1110	Department of Consumer Affairs, Boards
1111	Department of Consumer Affairs, Bureaus, Programs, Divisions
2150	Department of Financial Institutions
2180	Department of Corporations
2400	Department of Managed Health Care
8260	California Arts Council
8500	Board of Chiropractic Examiners
8780	Little Hoover Commission
8820	Commission on the Status of Women

(See Table of Contents on page 2 for a More Specific Listing of Issues)

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Item Number and Title **Page**

Department Budgets Proposed for Vote Only

0510 Secretary for State and Consumer Services

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

The Governor proposes expenditures of $2.6 million ($1.24 million General Fund) and 17.2 positions for the Agency – an increase of $340,000 and 1.0 positions from 2009-10. However, this funding level is $639,000 and four positions below the funding level for 2008-09. The Administration did not submit any Budget Change Proposals for the Agency.

Staff Recommendation. Approve

VOTE:

1110 Department of Consumer Affairs

Boards and Bureaus Without Budget Change Proposals (BCPs). The Administration did not submit BCPs for the following entities. No Board or Bureau listed below receives General Fund support. (Dollars are in thousands)

DCA Boards and Bureaus Without BCPs

(dollars in thousands)

		Positions		Expenditures	
		2009-10	2010-11	2009-10	2010-11
1	Architects Board	84.5	85.5	$ 12,035	$ 12,746
2	Dental Board	63.2	71.6	$ 11,535	$ 13,267
3	Dental Hygiene Committee	3.9	6.7	$ 1,118	$ 1,296
4	Guide Dogs for the Blind	1.5	1.5	$ 176	$ 190
5	Acupuncture Board	7.6	8.4	$ 2,461	$ 2,637
6	Physician Assistant Com.	4.9	4.8	$ 1,234	$ 1,425
7	Podiatric Medicine	5.1	5.1	$ 1,274	$ 1,402
8	Psychology	13.6	15.3	$ 3,390	$ 4,000
9	Respiratory Care Board	16.2	16.5	$ 2,858	$ 3,150
10	Naturopathic Medicine Com.	0.0	1.0	$ -	$ 138
11	Registered Nursing	105.3	131.9	$ 23,403	$ 29,889
12	Court Reporters Board	4.5	4.5	$ 1,154	$ 1,125
13	Arbitration Certification Prog.	7.6	7.6	$ 1,042	$ 1,154
14	Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation	0.0	43.9	$ -	$ 7,567
15	Automotive Repair	611.6	613.3	$172,629	$193,291
16	Telephone Medical Advise Services Bureau	0.9	0.9	$ 144	$ 149
17	Cemetery and Funeral	22.5	22.5	$ 3,854	$ 4,221
18	Professional Fiduciaries	1.9	1.6	$ 211	$ 293

Staff Recommendation. Approve

VOTE:

8260 The California Arts Council

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

The Governor proposes expenditures of $5.7 million ($1.1 million General Fund) and 18.3 positions for the Arts Council – a decrease of $314,000 and no change in positions from 2009-10. The Administration did not submit any Budget Change Proposals for the Board.

Staff Recommendation. Approve

VOTE:

8500 Board of Chiropractic Examiners

The Board of Chiropractic Examiners protects California consumers from fraudulent, negligent, or incompetent practice chiropractic care. The Board ensures that providers are adequately trained and meet recognized standards of performance for treatment and practice. The Board uses licensing, continuing education, and disciplinary procedures to maintain those standards. It also sets educational standards for recognized chiropractic colleges, reviews complaints, and investigates possible violations of the Chiropractic Act and regulations.

The Governor proposes expenditures of $3,671,000 from the State Board of Chiropractic Examiners Fund and 20.1 positions for the Board. This is a decrease of $133,000 and no change in positions from 2009-10. The Administration did not submit any Budget Change Proposals for the Board.

Staff Recommendation. Approve

VOTE:

8780 Little Hoover Commission

The Little Hoover Commission on California State Government Organization and Economy conducts four to five comprehensive reviews of executive branch programs, departments, and agencies each year and recommends ways to improve performance by increasing efficiency and effectiveness. The Commission, which was established in 1962, analyzes and makes recommendations to the Legislature on government reorganization plans.

The Governor proposes expenditures of $945,000 (primarily General Fund) and 8.8 positions for the Commission, an increase of $119,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the Commission.

Staff Recommendation. Approve

VOTE:

8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating its constituencies. The Commission was originally established as an advisory body in 1965.

The Governor's Budget proposes expenditures of $489,000 (General Fund) and 4.6 positions – an increase of $57,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the Commission.

Staff Recommendation. Approve

VOTE:

1100 California Science Center

Departmental Overview and Mission. The California Science Center is an educational, scientific, and technological center located in Exposition Park, a 160-acre tract in south Los Angeles. The Science Center has interactive exhibits on human inventions and innovations, the life processes of living things, and temporary exhibits. The California African American Museum (CAAM), also included in the park, provides exhibitions and programs on the history, art, and culture of African Americans. In addition, the Office of the Park Manager is responsible for maintenance of the park, public safety, and parking facilities.

Budget Overview. The Governor proposes expenditures of $32.3 million ($12.5 million General Fund) and 203.2 positions for the Science Center – a total increase of $1 million, but a General Fund decrease of $10.7 million. Instead of General Fund, the Governor proposes an admissions fee for the Science Center.

Issue Proposed for Discussion:

Issue 1 – Science Center Admissions Fee – Trailer Bill

Visitation. The Science Center receives an average of 1.2 million visitors annually. School groups make up approximately 33 percent of these visitors. 57 percent of visitors to the Science Center are Latino, African-American, and Asian-American.

Current Budget. The Science Center has an annual budget of $31.3 million, of which $2.7 million is designated for the CAAM and $5.6 million is for the management of Exposition Park as a whole. Of the 31.3 million, $23.3 million is General Fund. Of the General Fund amount, $4.8 million is for bond repayments, which cannot be redirected to programs. The non-profit California Science Center Foundation, which assists in the operation of the Science Center, has a budget of about $17.8 million.

Governor's Budget. The Governor proposes trailer bill language to require the Science Center to collect an admissions fee that would be deposited into a new Science Center Fund. The new admissions fee would replace $12 million of the Science Center's current General Fund support budget of $23.3 million. The trailer bill language does not specify the fee level that would be collected.

LAO Recommendation. The LAO recommends approval in concept of charging admissions fees, but withholds recommendation on the amount of General Fund reduction pending the Center's estimation of fee revenues that could be generated. The LAO believes that support from the Science Center should come from a mix of funding, including admission fees, private donations, and other non-state revenues. However, given the number of annual visitors to the Center, it is not clear to the LAO whether it can generate $12 million in revenues each year.

Staff Comment. Approximately one-third of the Science Center's visitors are school groups, which would be unlikely to afford admissions fees for each student, due to the funding restrictions that local school districts are currently experiencing.

Once school groups are taken out of the Science Center attendance, the admissions fee would have to be raised to $15 per person to raise $12 million. This ticket price assumes no differentiation for seniors, students, or children (independent of school groups). If the Science Center moves from a policy of free admission to charging $15 per person, there will surely be a drop in attendance. Once attendance drops, in order to not suffer a loss of revenue the admissions fee would have to increase further.

Museums similar to the Science Center that collect an admissions fee receive gross admissions fee revenues between $600,000 and $4 million annually. This is far below the revenue expectations built into the Governor's Budget.

Staff thinks that there are some possibilities for the Science Center to raise revenue that does not compromise the Science Center's dedication to free admission. The Science Center already charges for $8 for parking. (The Science Center also charges for their IMAX movie tickets.) It may be possible to raise additional revenue through increasing the parking fee from $8 to $10. The increase in parking fees would also apply to events at Exposition Park, including football games and concerts. Based on past Science Center parking fee increase revenue collections, staff estimates that the Science Center can collect approximately $1 million in new revenue from raising parking fees.

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

1. REJECT the Governor's trailer bill language [as a corresponding budget bill action, delete Item 1100-001-0001 (10) Amount Payable form the Science Center Fund and delete Item 1100-001-3161 ($12 million) payable from the Science Center Fund]
2. INCREASE item 1100-001-0001 from $9,836,000 to $20,836,000
3. INCREASE item 1100-001-0267 from $5,931,000 to $6,931,000
4. APPROVE provisional language:
    a. On or before December 1, 2010, the State and Consumer Services Agency and California Science Center shall report to the Budget Committee and appropriate policy committees regarding any short- and long-term alternatives for restructuring the California Science Center's financing and governance. The report shall include an analysis of other governmental entities' possible role in financing and governance of the Science Center; the role of the non-profit California Science Center Foundation; the use parking or other sources of revenue; the policy and fiscal implications of any alternatives; and possible timeline for any recommended changes.

VOTE:

1110 Department of Consumer Affairs

Departmental Overview and Mission. The Department of Consumer Affair's (DCA) Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns. DCA Boards and Bureaus establish minimal competency standards for more than 255 professions involving approximately 2.4 million professionals. There are currently 40 boards, a commission, and a committee under the broad authority of the DCA.

Budget Overview. The Boards are budgeted under organizational code 1110, and the total proposed budget is $273.7.1 million (no General Fund) and 1,521.6 positions – an increase of $30 million and 98 positions. The Bureaus are budgeted under organizational code 1111, and the total proposed budget is $230.4 million (no General Fund) and 1,435.2 positions – an increase of $32.2 million and 66.3 positions.

Issues Proposed for Vote Only:

Issue 1 – Accountancy – SB 819: Practice Privilege (BCP #02L)

Board of Accountancy. Created by statute in 1901, the California Board of Accountancy's legal mandate is to regulate the accounting profession for the public interest by establishing and maintaining entry standards of qualification and conduct within the accounting profession, primarily through its authority to license.

In California, the accounting profession's licensed practitioners are the Certified Public Accountant (CPA) and the Public Accountant (PA). The CBA currently regulates over 81,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

Governor's Budget Request. The Governor requests 2.0 limited-term positions to address additional licensing workload from SB 819. The position would be paid for with existing budget authority ($172,000 from Accountancy Fund, Professions and Vocations Fund).

Staff Comment. SB 819 (Yee, 2009) requires the Board of Accountancy to establish two advisory committees: the Advisory Committee on Accounting Ethics Curriculum and the Accounting Education Advisory Committee. These advisory committees are to make recommendations for continuing education, and the Board must then promulgate regulations related to the continuing education in accounting and ethics. The two requested positions will staff the advisory committees and assist in developing required regulations.

Staff Recommendation. Approve

VOTE:

Issue 2 – Barbering and Cosmetology – Inspection Program (BCP #04)

Board of Barbering and Cosmetology. The Board of Barbering and Cosmetology's (BBC) oversees cosmetologists, barbers, manicurists, estheticians (skin care), and electrologists (permanent hair removal). The BBC's responsibilities are protecting and educating consumers who seek barbering, cosmetology, and electrology services. BBC also regulates and licenses the individuals who provide the services and the salons in which the services are performed. The BBC adopts rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, approved schools, and in the practice of any professions it oversees.

Governor's Budget Request. The Governor requests $303,000 in 2010-11 and $238,000 in 2011-12 (State Board of Barbering and Cosmetology Fund) and 4.0 limited-term positions to meet a statutorily established goal of inspecting new licensees within 90 days of being issued a license.

Staff Comment. The BBC currently licenses approximately 440,000 establishments, schools, and individuals throughout California. The BBC has 25 inspectors to enforce health and safety regulations. In 2008-09, 5,825 new establishment licenses were issued. Of those establishments, BBC was able to inspect only 17 percent with existing staff. The requested 4.0 temporary positions would allow the BBC to inspect more of the new establishments within the statutorily mandated 90 days of being issued a license.

Staff Recommendation. Approve

VOTE:

Issue 3 – Speech-Language – AB 1535: Board Consolidation (BCP #04L)

Governor's Budget Request. The Governor requests a reversion of funds, -$2,000 in 2010-11 and -$72,000 in 2011-12 and ongoing (Hearing Aid Dispensers Account of the Speech-Language Pathology and Audiology Fund). The request would also eliminate 3.8 positions.

Staff Comment. AB 1535 (Jones, 2009) consolidated the Speech-Language Pathology and Audiology Board with the Hearing Aid Dispensers Bureau. The new, combined entity is named the Speech-Language Pathology and Audiology and Hearing Aid Board. The consolidation led to some savings that are reflected in this proposal to revert funds.

Staff Recommendation. Approve

VOTE:

Issue 4 – Behavioral Sciences – Licensing Positions (BCP #06)

Board of Behavioral Sciences. The Board of Behavioral Sciences is responsible for consumer protection through the regulation of Marriage and Family Therapists (MFT); Licensed Clinical Social Workers (LCSW); Licensed Educational Psychologists (LEP); MFT Interns; and Associate Clinical Social Workers (ASW) in the State of California.

Governor's Budget Request. The Governor requests a redirection of $37,000 for 2010-11 and $31,000 (Behavioral Science Examiners Fund) ongoing to establish a 0.5 PY in the Board of Behavioral Sciences licensing unit. This position would monitor the continuing education requirements of the MFT and LCSW licensees.

Staff Comment. State statute mandates that MFT and LCSW must meet continuing education requirements to qualify for a license renewal. There are approximately 48,000 licensees who must meet these continuing education requirements. Currently, licensees are self-certifying their continuing education requirements. A recent Board audit of 87 licenses found that 40 percent of those audited are not in compliance with their continuing education requirements.

Staff Recommendation. Approve

VOTE:

Issue 5 – Security and Investigative Services – SB 741: Proprietary Private Security Employers (BCP #08L)

The Bureau of Security and Investigative Services. The Bureau seeks to ensure that consumers, licensees, and businesses will have a safe, fair, and competitive marketplace. The Bureau licenses and enforces regulations for private investigators, uniformed private security, alarm companies, locksmiths, repossession agencies, and repossessors.

Governor's Budget Request. The Governor requests funding for three years only: $69,000 in 2010-11, $57,000 in 2011-12, and $29,000 in 2012-13 (Private Security Services Fund) for updates to the Applicant Tracking System and Consumer Affairs System databases, and one limited-term position.

Staff Comment. SB 741 (Maldonado, 2009) requires Proprietary Private Security Employers (PPSEs) to register with the Bureau by January 1, 2011. The Bureau estimates that by 2012-13 over 400 PPSEs will be registered and need license renewals. The positions requested are limited-term to see if the workload materializes as expected.

Staff Recommendation. Approve

VOTE:

Issue 6 – Contractors State License Board – EEEC (BCP #09)

Contractors State License Board. The Contractors State License Board (CSLB) protects consumers by licensing and regulating California's construction industry. There are more than 310,000 licensed contractors in the state, in 43 different licensing classifications. In addition to educating consumers about contractors and construction law, CSLB activities include administering examinations to test prospective licensees, issuing licenses, investigating complaints against licensed and unlicensed contractors, issuing citations, suspending or revoking licenses, and seeking administrative, criminal, and civil sanctions against violators.

Governor's Budget Request. The Governor requests making 11.0 temporary positions permanent at a cost of $918,000 (Contractors License Fund) annually for the Economic and Employment Enforcement Coalition (EEEC).

Staff Comment. Since mid-2005, the multi-agency EEEC has worked to combat the worst violators of federal and state labor, licensing, and tax laws operating in the underground economy. The goal of the EEEC is to target these violators who operate in the underground economy and thus assist legitimate businesses that do comply with California laws and offer workers all protections afforded under the law.

Staff raises no issues with these requests as the EEEC has proven its value to the state. It is also paid for entirely by special funds. Staff notes that implementation is scheduled for July 2010 and will allow for a continuance of this effective program without disruption.

The corresponding Governor's proposals for EEEC in the Department of Industrial Relations, the Employment Development Department, and the Labor and Workforce Development Agency are scheduled to be heard by Subcommittee 5 on April 29.

Staff Recommendation. Approve

VOTE:

Issue 7 – Contractors State License Board – System Programmer (BCP #11)

Governor's Budget Request. The Governor requests 0.5 permanent positions (Senior Programmer Analyst) to provide analysis, development, and support for the CSLB Licensing and Enforcement System. The position would be paid for with existing budget authority ($54,000 from Contractors' License Fund).

Staff Comment. In 2002, CSLB hired outside consultants to help with increasing workload associated with maintaining its Licensing and Enforcement System. However, the workload has not decreased, indicating that permanent staff may be needed to assist in the maintenance of the IT system. CSLB intends to replace the external consultants with 0.5 permanent positions.

Staff Recommendation. Approve

VOTE:

Issue 8 – Medical Board – Licensing Application Processing (BCP #15)

Medical Board. The Medical Board of California is a state government agency which licenses and disciplines medical doctors. The mission of the Board is to protect health care consumers through (1) the proper licensing and regulation of physicians and surgeons and certain allied health care professions and (2) through the vigorous, objective enforcement of the Medical Practice Act. The Board promotes access to quality medical care through the Board's licensing and regulatory functions. The Board provides two principal types of services to consumers: public-record information about California-licensed physicians, and investigation of complaints against physicians.

Governor's Budget Request. The Governor requests 7.8 permanent positions to be paid for out of existing budgeting authority (the cost of the positions is $536,000 from the Contingent Fund of the Medical Board of California) to review and process applications in their licensing program.

Staff Comment. The Medical Board license applications have increased from 4,252 in 1990 to 6,169 in 2008, or a 45 percent increase. During this time, the number of personnel to review applications increased from 15 to 18. Also, the backlog of applications older than 60 days has grown to 592. Due to these workload increases, additional positions to review license applications are justified.

Staff Recommendation. Approve

VOTE:

Issue 9 – Medical Board – AB 132: Sleep and Wake Disorders (BCP #10L)

Governor's Budget Request. The Governor requests $88,000 in 2010-11 and $58,000 in 2011-12 and ongoing (Contingent Fund of the Medical Board of California). These funds would be for a one-year limited-term Associate Governmental Program Analyst position in 2010-11 and starting in 2011-12 a permanent Office Technician to address the workload associated with implementing SB 132 (Denham, 2009).

Staff Comment. SB 132 requires the registration with the Medical Board of individuals assisting physicians in the practice of sleep medicine. The Associate Governmental Program Analyst would help set up the registration program, and the following year the Office Technician will process the routine paperwork for this program.

Staff Recommendation. Approve

VOTE:

Issue 10 – Occupational Therapy – Enforcement Manager Position (BCP #22)

Board of Occupational Therapy. The Board of Occupational Therapy (BOT) was created with the passage in 2000 of the Occupational Therapy Practice Act. The BOT licenses Occupational Therapists (OTs) and certifies Occupational Therapy Assistants (OTAs) in California. The BOT also investigates allegations of violations of state law by licensees and certificate-holders. OTs evaluate and treat sensori-motor, cognitive, and psychosocial problems that interfere with an individual's ability to perform in their specific environment.

Governor's Budget Request. The Governor requests $109,000 in 2010-11 and $99,000 in 2011-12 and ongoing (Occupational Therapy Fund) for one permanent position to supervise the enforcement unit and provide assistance with hiring and training. The new position (Staff Service Manager) would assist in day-to-day supervision of staff, oversee all personnel, budget, and business services functions within the BOT, and perform other routine supervisory functions required for operations.

Staff Comment. The BOT's licensee population has increased from about 8,500 in 2000 to 12,672 in 2009. The increase in licensees has led to a workload increase in administrative, licensing, and enforcement activities. Currently, the Executive Director of the BOT is spending time on smaller administrative tasks rather than focusing on Board meetings and policy development. The BOT has 14 positions.

Staff Recommendation. Approve

VOTE:

Issue 11 – Optometry – Licensing Position Increase (BCP #25)

State Board of Optometry. The Board of Optometry meets its public protection mandates by regulating the practice of optometry in California and providing public information about its licensees. Board operations are funded entirely by fees collected from applicants and licensees. There are about 7,000 licensed optometrists in California.

Governor's Budget Request. The Governor requests position authority for 0.5 permanent positions to address increased workload in the Board's licensing program. The position would be paid for with existing budget authority ($26,000 from State Optometry Fund, Professions and Vocations Fund).

Staff Comment. During the past two years, changes to national licensure examination, changes to statute, changes to the Board's fee structure, and changes to the application for licensure have caused an increase in workload for the Board's Licensing Program. Currently, the Licensing Program has 1.5 positions and a seasonal clerk. The new 0.5 position would address information requests from licensees and complete other license processing tasks.

Staff Recommendation. Approve

VOTE:

Issue 12 – Osteopathic Medical – Staffing Increase (BCP #27)

Osteopathic Medical Board. The Osteopathic Medical Board of California licenses osteopathic physicians and surgeons in order to protect consumers and promote the highest professional standards in the practice of osteopathic medicine. The board investigates consumer complaints and uses its enforcement power to ensure practitioners abide by the provisions of the state law. To maintain their license, practitioners must successfully complete rigorous, periodic continuing education requirements that meet the standards of the American Osteopathic Association (AOA).

Governor's Budget Request. The Governor requests $274,000 in 2010-11 and $238,000 in 2011-12 (Osteopathic Medical Board of California Contingent Fund) and 4.0 limited-term positions to address workload in administration and licensing.

Staff Comment. In 2000-01, the Board licensed 2,800 osteopathic physicians. In 2008-09, the number of licensees had grown to 5,280, an increase of 88 percent. During that same time period, the Board's staff increased from four positions to six positions. Due to the growth in the number of licensees, the Board has seen a backlog of over four months in license processing. New licenses take an average of nine weeks longer to process than is the goal of the Board.

Staff Recommendation. Approve

VOTE:

Issue 13 – Pharmacy – Licensing Support Staff (BCP #29)

Board of Pharmacy. The Board of Pharmacy protects and promotes the health and safety of Californians by pursuing the highest quality of pharmacist's care and the appropriate use of pharmaceuticals through education, communication, licensing, legislation, regulation, and enforcement.

Governor's Budget Request. The Governor requests $94,000 and a redirection of $21,000 in 2010-11 and ongoing (Pharmacy Board Contingent Fund, Professions and Vocations Fund) for 2.0 permanent positions. These positions would help process changes to license applications and provide basic customer service.

Staff Comment. Since 2006-07, the Board has seen a large increase in the number of applications received: Pharmacist-In-Charge (eight percent increase); Designated Representative-In-Charge (105.4 percent increase); and Discontinuance of Business (56.5 percent increase). The new staff would help process these applications for licenses in a timely manner.

Staff Recommendation. Approve

VOTE:

Issue 14 – Professional Engineers and Land Surveyors – Citations Program Workload and Backlog (BCP #30)

Board of Professional Engineers and Land Surveyors. The mission of the Board for Professional Engineers and Land Surveyors (BPELS) is to safeguard the life, health, property, and welfare of the public by regulating the practice of professional engineering and land surveying. In 2009, legislation was enacted that eliminated the Board for Geologists and Geophysicists and transferred all of the duties, powers, purposes, responsibilities, and jurisdiction to regulate the practices of geology and geophysics to the Board for Professional Engineers and Land Surveyors.

Governor's Budget Request. The Governor requests $94,000 in 2010-11 and $86,000 ongoing (Professional Engineers' and Land Surveyors' Fund) for one permanent position to address the backlog of citations for unlicensed activity.

Staff Comment. The BPELS has an increased backlog of citations. The citations are not being processed because the BPELS receives new enforcement cases that existing staff work on addressing. The new position would handle the backlog of citations, as well as new citations. The citations will bring in funds to BPELS that are currently not being collected.

Staff Recommendation. Approve

VOTE:

Issue 15 – Professional Engineers and Land Surveyors – Workload (BCP #02SFL)

Spring Finance Letter. The Governor's Spring Finance Letter requests $559,000 in 2010-11 and $544,000 in 2011-12 and ongoing (Geology and Geophysics Fund) and 3.0 permanent positions to absorb the workload of the former Board of Geologists and Geophysicists (BGG) into the BPELS. Also, the Spring Finance Letter includes the redirection of one position from BPELS into BGG enforcement activities.

Staff Comment. AB 20xxxx transferred the duties of the BGG to the BPELS. At the time it was acknowledged that the exact number of positions needing to be transferred from the BGG to the BPELS was not known, and that the administration should pursue a budget request once workload requirements were documented. This proposal reflects that workload request.

Staff Recommendation. Approve

VOTE:

Issue 16 – Vocational Nursing and Psychiatric Technicians – Licensing Workload (BCP #36)

Board of Vocational Nursing and Psychiatric Technicians. The California Board of Vocational Nursing and Psychiatric Technicians (Board) protects the consumer from unprofessional and unsafe licensed vocational nurses (LVNs) and psychiatric technicians (PTs). Specifically, the Board: (1) establishes the minimum requirements for examination and licensure; (2) establishes educational standards for the accreditation of Vocational Nursing (VN) and Psychiatric Technicians (PT) schools in California; (3) adopts regulations to clarify the performance, practice, and disciplinary standards for its licensees; (4) enforces the regulations governing the continued accreditation of VN & PT schools in California; and (5) enforces the regulations governing LVNs and PTs by taking appropriate disciplinary action against incompetent or unsafe licensees efficiently and effectively.

Governor's Budget Request. The Governor requests $258,000 in 2010-11 and $229,000 on-going (Vocational Nursing and Psychiatric Technicians Fund) and 4.0 permanent positions to address the increase in licensing workload and the resulting backlog.

Staff Comment. The Board has seen a 74 percent increase in the number of vocational nursing programs since 2003 (from 121 to 211). Due to the increase in programs, there has been a corresponding increase in the number of individuals needing to be licensed as vocational nurses (from 10,025 in 2003 to 20,809). The significant increase in individuals needing to be licensed has led to a backlog of licensing applications that justifies the new positions requested.

Staff Recommendation. Approve

VOTE:

Issue 17 – Athletic Commission – Athletic Inspector and Training Augmentation (BCP #01SFL)

California State Athletic Commission. The Athletic Commission was established in 1924 by initiative vote to oversee boxing events. Today, the Athletic Commission has licensing, regulatory, and disciplinary authority over multiple types of combative sports, including wrestling and mixed martial arts. The Athletic Commission issues 20 license types and oversees over 12,500 licensees.

Spring Finance Letter. The Governor's Spring Finance Letter requests a budget augmentation of $464,000 (Athletic Commission Fund). The funding would allow the Athletic Commission to provide more athletic inspectors at sporting events. There are no positions as part of this request.

Staff Comment. The funds requested would come from collection of gate taxes at sporting events. Due to lack of staffing, the Athletic Commission has had sporadic collection of gate taxes at events (Commission staff needs to be present to collect the taxes). Combative sporting events have increased from 173 in 2006-07 to an estimated 250 in 2010-11. These new events will need to be staffed with athletic inspectors, who are hired per event by the Commission.

Staff Recommendation. Approve

VOTE:

Issue 18 – Consumer and Community Empowerment – Reversion (BCP #01)

Governor's Budget Request. The Governor requests a reversion of funds, -$208,000 ongoing (Consumer Affairs Fund, Professions and Vocations Fund), and the elimination of 4.0 positions.

Staff Comment. The Department of Consumer Affairs' Consumer and Community Empowerment Division (CCED) contains a call center that was established in 1994. A recent workload analysis for the call center revealed the need for 23.4 positions, but the call center employs 27.4 positions. This request would reduce positions to be equivalent to the current need.

Staff Recommendation. Approve

VOTE:

Issue 19 – Various – AB 20xxxx: Board Consolidations (BCP #07L)

Governor's Budget Request. The Governor requests a reversion of funds, -$5,240,000 in 2010-11 and ongoing, and the elimination of 37.9 positions.

Staff Comment. AB 20xxxx consolidated or eliminated various programs within the Department of Consumer Affairs (DCA), leading to the savings identified by the Governor. Specifically, the bill:

- Abolished the Naturopathic Bureau and moved its tasks to the Naturopathic Committee in the Osteopathic Board.
- Moved the Structural Pest Control Board from DCA to the Department of Pesticide Control.
- Consolidated the Bureau of Electronic Appliance Repair and the Bureau of Home Furnishings and Thermal Insulation.
- Abolished the Geologists and Geophysicist Board and moved its functions into the Board for Professional Engineers and Land Surveyors.

Staff Recommendation. Approve

VOTE:

Issues Proposed for Discussion:

Issue 20 – CPEI (BCP #1A)

Background. The Department of Consumer Affairs (DCA) contains 18 healing arts boards. The boards are responsible for licensing professionals within the medical field they oversee, as well as developing and enforcing regulations. Currently, it takes the healing arts boards about a year to investigate a complaint and three years to resolve an enforcement action. In 2008-09, DCA received 26,205 complaints against healing arts boards' licensees.

Current Enforcement Structure. Under the current enforcement structure, each of the healing arts boards has their own enforcement staff. Enforcement of professional standards is primarily achieved through: 1) investigating possible violations, issuing intermediate disciplinary sanctions, and pursing formal disciplinary administrative actions; 2) mediating complaints; 3) monitoring professional conduct; and 4) auditing educational requirements.

The DCA has the authority to assess fines and issue citations, notices of violation, letters of reprimand, and cease-and-desist orders. Also, when necessary, the various program and departmental enforcement staffs work closely with the Attorney General's (AG's) Office and local district attorneys in an effort to remove incompetent practitioners and to reduce fraud in the marketplace.

Governor's Budget Request. The Governor requests $12,770,000 and 107.0 positions in 2010-11; and $14,216,000 and 138.5 positions in 2011-12 and ongoing to the healing arts Boards for the purpose of implementing the Consumer Protection Enforcement Initiative (CPEI). In addition to the positions previously mentioned, the Governor requests 19.0 limited-term positions to conduct complaint intake and analysis. The intent of the CPEI is to streamline and standardize the complaint intake/analysis, reorganize investigative resources, and decrease the average processing time for complaint intake, investigation, and prosecution from three years to 12-18 months by 2012-13.

The Governor's proposal also includes budget bill language that would allow the Department of Finance to augment the healing art boards' budgets for Attorney General work by up to 20 percent per board without notifying the Legislature.

The Governor's proposal also includes trailer bill language that would enact some significant and minor changes to DCA's authority in investigating regulation violations by licensees. Much of the trailer bill language corresponds to language in a pending policy bill, SB 1111 (Negrete McLeod).

Staff Comments. There are two major parts to the Governor's proposal: the changes to the structure of the department's enforcement activities, and the resource needs requested by the department.

Requested Structural Changes. The proposal would create a new centralized Enforcement Compliance Unit within the DCA that would audit the boards for their case closure timeframe and compile annual data reports on complaint workloads and processing times. Some sworn investigators would be located at the Enforcement Compliance Unit while some of the larger boards, such as the Medical Board, would have their own sworn investigators.

The trailer bill language included in the proposal overlaps greatly with a pending policy bill, SB 1111. Since the administration chose to pursue much of the requested language in a policy bill, that language should move through the policy discussion and be removed from the budget trailer bill language. Only the non-duplicative parts of the language should be left in the trailer bill for Subcommittee consideration.

Staff also has minor concerns with the wording of the proposed budget bill language. From the current language, it is not clear if the budget increases that the Department of Finance could approve are 20 percent of the cumulative AG contract budget for each board, or 20 percent per request made by a board.

Requested Resources. The proposal requests a total of 138.5 positions over two years. The DCA has demonstrated that the State Personnel Board has a large enough pool of candidates from which to fill the non-sworn investigator classification. The DCA intends to phase in the staffing requested in this proposal.

Staff has concerns about the proportion of the backlog that was created due to furloughs of state employees. The DCA is a special funded agency.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board:

- Are the policy changes enacted by the trailer bill language necessary to process the three-year backlog in enforcement cases?
- Will the increased DCA oversight of boards through the Deputy Director of Enforcement jeopardize the boards' independence?
- What administrative steps have already been taken to improve the enforcement process?
- Why should the centralized office for enforcement at DCA not be the entity handling and tracking the Attorney General contracts?
- How many cases were not processed due to the Governor imposed furloughs?
- What are the baseline positions for enforcement? How many cases per position are currently completed?

- In 2008-09, the healing arts boards logged 26,205 cases, but opened 8,121 investigations. Why were all logged cases not investigated?
- Can the department hire 107 new staff in the first year?

Staff Recommendation. Hold open

VOTE:

Issue 21 – BreEZe (BCP #1B)

Background. Licensing of businesses and professionals includes: processing applications and qualifying applicants, conducting exams/processing results, maintaining and analyzing licensing-related information, authorizing practice(s) and issuing licensing documents, renewing licenses, performing Family Support verification, creating a variety of management reports, and processing a multitude of other requests.

Current IT Systems. DCA has two stand-alone IT systems: the Applicant Tracking System (ATS) and the Consumer Affairs System (CAS). These systems require staff to log on and enter license application and renewal activity. These systems do not allow web-interface with clients. Additionally, the existing IT systems lack case management technologies.

The iLicensing Project was approved by the Legislature in 2006, and was supposed to provide DCA-wide reporting capacity across the CAS and ATS systems, and include the ability to collect on-line electronic payments for licensing fees.

Governor's Budget Request. The Governor requests budget authority for the procurement and implementation of an integrated licensing and enforcement system. The funding for the system is divided between the special funds of the 40 boards and bureaus. The budget request is as follows (years 2010-11 through 2014-15 total $20.3 million):

- 2010-11: $2,080,000 (redirected from existing resources)
- 2011-12: $2,283,000
- 2012-13: $3,600,000
- 2013-14: $6,219,000
- 2014-15 and ongoing: $6,125,000

Alternative Payment Model. The DCA has structured the BreEZe cost proposal based on a "fee-per-transaction" payment model. Under this payment model, the solution vendor receives no payment prior to the State's acceptance and use of the production system. Instead, the solution vendor will be compensated by assessing system clients with a transaction fee for specific master transactions. For the BreEZe system, the DCA is anticipating that the solution vendor will assess a $3 per transaction fee to boards and bureaus for each application or renewal processed through the new system.

System Capabilities. BreEZe is a proposed integrated enterprise enforcement case management and licensing system that will support the efficient execution and performance measurement of the DCA's enforcement and licensing programs. BreEZe will allow for secure cross-license checking for every DCA board and bureau, and provide the ability to interface with any other capable external systems used in the enforcement process, such as the Department of Justice, the Employment Development Department, or the Department of Public Health, once the appropriate agreements have been established authorizing the secured sharing of the data.

Staff Comments. The proposed payment structure may not be in the long-term best interest of the state. It is not clear from the proposal if the vendor's ability to charge fees to the boards and bureaus would last indefinitely. With about 2.4 million professionals requiring licensing in California, entering them all into the system at $3 each would cost the State about $7.2 million annually. In addition to these routine filings would be charges for entering complaints and accessing other databases.

There may be merit to creating a uniform IT system for the Department, but it is not clear why the iLicensing Project could not meet those needs.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board:

- If DCA intends to pursue an alternative payment model for BreEZe, why are there funds requested from the various DCA special funds prior to the completion of the system?
- If the "fee-per-transaction" payment model is accepted, will system costs continue indefinitely and potentially lead to a far costlier system than a traditional purchase model?
- Will the transaction fee be passed onto the licensees of the boards and bureaus, thus in effect forcing a fee increase onto the licensees?
- The first year of funding would come from redirected funding from the iLicensing Project. How much has been spent on the iLicensing Project to date?

Staff Recommendation. Hold open

VOTE:

Issue 22 – Private Postsecondary Education – (BCP #09L)

Bureau for Private Postsecondary Education. The Bureau for Private Postsecondary Education was established by AB 48 (Portantino, 2009) within the Department of Consumer Affairs. The Act became operative on January 1, 2010. The Bureau is supposed to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions. The Bureau is required to review and investigate all institutions, programs, and courses of instruction in private postsecondary education institutions.

Background. The previous Bureau for Private Postsecondary Education sunset on July 1, 2008. It had been created by AB 71 (Wright, 1997) within the Department of Consumer Affairs. The Governor vetoed SB 823 (Perata, 2008), which would have moved the sunset date and made some changes to the Bureau's operations. The Governor's veto message expressed that the bill would not have treated private postsecondary educational institutions uniformly.

Governor's Budget Request. The Governor requests $8,739,000 (Private Postsecondary Education Administration Fund) and 67.4 permanent positions to establish the Bureau for Private Postsecondary Education.

Staff Comment. It is important to have oversight of the private postsecondary educational institutions in California. Without proper oversight, students could be misled about their educational opportunities and the costs of pursuing a private postsecondary education.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Bureau:

- How many institutions will the Bureau have authority over in California?
- What actions is the Bureau taking to ensure that existing and potential students know about their rights in regards to private postsecondary education?
- What has the Bureau done to resolve student claims to the Student Tuition Recovery Fund that existed before the previous Bureau sunset in 2008?
- Have any of the positions requested been administratively created?
- Will the Bureau be able to hire all of the requested positions during the budget year?

Staff Recommendation. Hold open

VOTE:

Issue 23 – Accountancy – AB 138: Peer Review (BCP #01L)

Board of Accountancy. Created by statute in 1901, the California Board of Accountancy's legal mandate is to regulate the accounting profession for the public interest by establishing and maintaining entry standards of qualification and conduct within the accounting profession, primarily through its authority to license.

In California, the accounting profession's licensed practitioners are the Certified Public Accountant (CPA) and the Public Accountant (PA). The CBA currently regulates over 81,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

Background. AB 138 (Hiyashi, 2009) requires that accounting firms providing audit, review, or compilation (accounting and auditing) services undergo a peer review of their accounting and auditing practice to ensure the work performed conforms to professional standards. Peer reviews will be required every three years.

Governor's Budget Request. The Governor requests 2.0 permanent positions to be paid for out of existing budgeting authority (cost of the positions is $211,000 from Accountancy Fund, Professions and Vocations Fund) for the workload generated by AB 138.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board:

- Why should these positions be made permanent if the program is going to sunset in 2014?

Staff Recommendation. Hold open

VOTE:

Issue 24 – Behavioral Sciences – SB 788: Licensed Professional Clinical Counselors (BCP #03L)

Background. SB 788 (Wyland, 2009) requires the licensure, registration, and regulation of licensed professional clinical counselors and interns by the Board of Behavioral Sciences. California is the last state in the nation to require that professional clinical counselors be licensed. The Board must develop the rules and regulations to implement SB 788.

Governor's Budget Request. The Governor requests the following amounts from Behavioral Science Examiners Fund, Professions and Vocations Fund:

- 2010-11: $1,079,000
- 2011-12: $1,418,000
- 2012-13: $1,335,000
- 2013-14 and ongoing: $1,264,000

The funds would be for addressing workload related to SB 788, which requires that professional clinical counselors be licensed. The request includes 6.0 positions in 2010-11, growing to 12.0 positions in 2011-12.

Staff Comment. The proposal as submitted by the Governor seems to suggest that the Board can anticipate 1,086 license applications annually. This number of license applications does not justify the six positions requested.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board:

- How many professional clinical counselors is the Board expecting will seek licenses?
- The proposal mentions that California will be able to participate in some federally funded programs. Please expand on this statement for the Subcommittee.

Staff Recommendation. Hold open

VOTE:

Issue 25 – Physical Therapy – AB 120: Continuing Competency (BCP #17)

Physical Therapy Board. The Physical Therapy Board (PTB) licenses and disciplines physical therapist and physical therapist assistants. The PTB provides three principal types of consumer services: verifies education and background prior to licensure, provides information about the practice of physical therapy by physical therapists and physical therapist assistants; and investigates complaints against physical therapists and physical therapist assistants.

Governor's Budget Request. The Governor requests $115,000 in 2010-11 and $125,000 in 2011-11 and ongoing (Physical Therapy Fund) for 2.0 permanent positions to handle the workload from AB 120 (Cohn, 2006).

Staff Comment. AB 120 required the Physical Therapy Board to establish a Continuing Competency Program, through which licensees are required to take continuing education in physical therapy. The PTB set up regulations requiring the continuing education starting in October 2010. The PTB has 27,000 active licensees, who will have to meet a 30-hour biennial continuing education requirement. The two positions requested will process the additional workload from the continuing education requirement.

However, AB 120 did not include a funding source for the workload. The funding for the positions comes from existing license fees.

Staff Recommendation. Hold open

VOTE:

Issue 26 – Veterinary Medical – AB 107: Temporary Licenses (BCP #39L)

Veterinary Medical Board. The mission of the Veterinary Medical Board (VMB) is to protect consumers and animals through development and maintenance of professional standards, licensing of veterinarians, registered veterinary technicians, and veterinary premises and diligent enforcement of the California Veterinary Medicine Practice Act.

Governor's Budget Request. The Governor requests $111,000 in 2010-11 and $68,000 in 2011-12 and ongoing (Occupational Therapy Fund) for one permanent position to manage the licensing workload associated with AB 107 (Galgiani, 2009).

Staff Comment. AB 107 created additional workload for the VMB by requiring that out-of-state applications be issued temporary licenses and allowing citations to be issued to registered veterinary technicians who violate the Veterinary Medicine Practice Act. The VMB estimates that it will issue approximately 100 new temporary licenses annually as a result of AB 107. An increase in case complexity, due to increasing number of practices with multiple veterinarians operating out of the same business and changes to the "due process" procedures, has led to an increase in case processing time. The longer time frame to process cases has led to a growth in case backlog. The requested position would process the new temporary license applications and help with the case backlog.

However, the new licenses that will be provided under AB 107 will not be sufficient to pay for the position requested.

Staff Recommendation. Hold open

VOTE:

2150 Department of Financial Institutions

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

Budget Overview. The Governor proposes total expenditures of $34.2 million (no General Fund) and 253.5 positions - an increase of $3.1 million and no change in positions from 2009-10.

Issue Proposed for Vote Only:

Issue 1 – Money Transmitters (BCP #1)

Background. In 2008, money transmitters licensed by Department of Financial Institutions transferred $72 billion. Unlike for banks and other financial institutions, there is no federal oversight agency equivalent for money transmitters. Money transmitters include some well-known companies such as Google, PayPal, and Western Union, as well as numerous smaller companies.

Governor's Budget Request. The Governor requests making 8.6 temporary positions permanent at a cost of $1,030,000 (Financial Institutions Fund) annually.

Staff Comment. The DFI is the only entity providing routine oversight of money transmitters in California. With such a large volume of funds transferred daily, it is in the interest of consumers that oversight be provided. The current temporary employees are already trained at the task of oversight, and it would be beneficial for the state to retain them.

Staff Recommendation. Approve

VOTE:

Issue Proposed for Discussion:

Issue 2 – Augmentation to Address Economic Deterioration

Background. The Department of Financial Institutions is responsible under state law for ensuring, though regulatory oversight and on-site examinations of licensees, the soundness of financial institutions that operate in California only. The DFI ranks financial institutions based on the Capital, Assets, Management, Earnings, Liquidity, Sensitivity (CAMELS) rating system. CAMELS ranks institutions on a scale of 1 to 5, with 1 and 2 rated financial institutions considered to be in satisfactory condition and financial institutions rated 3 or lower considered to be "problem" institutions. Since the fall of 2008, the number of institutions in California rated 3 or lower has increased from 73 to 159.

Governor's Budget Request. The Governor requests $1,009,000 in 2010-11 and $1,053,000 ongoing (special funds) for 9.5 permanent positions to provide increased oversight of the banking industry. The chart shows the breakdown of the funds by special fund. The positions would be as follows:

- 2.0 positions requested are for the Banking Program to conduct workload associated with a new $19 billion state-chartered bank that is expected to open in the Spring of 2010.
- 5.0 positions requested are for increased examination and supervision issues arising from deteriorating financial conditions in problem institutions.
- 3.0 positions requested are for increased workload associated with regulating the financial condition of credit union licensees due to the prolonged economic slowdown.

	2010-11
Financial Institutions Fund	$708,000
Credit Union Fund	$301,000
PY's	9.5

Staff Comments. The establishment of a new bank in California with a $19 billion portfolio creates workload warranting the addition of examiners to the DFI Banking Program.

The current economic downturn is thought by some economists to continue for the next few years until a complete recovery is made. If a complete economic recovery can be achieved within three years, creating permanent positions in response to increased workload created by the economic downturn may not be prudent. However, staff acknowledges that for highly specialized classifications like the DFI examiners it can be difficult to recruit qualified staff for a temporary position.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board.

- Does the department anticipate the need for the eight positions to conduct bank examinations to last beyond the current economic crisis?
- Is the department working with DPA to make examiner pay more comparable with other governmental sectors in order to increase examiner retention?

Staff Recommendation. Staff recommends that the Subcommittee:

1. APPROVE 2.0 positions for the Banking Program
2. APPROVE 7.5 temporary positions for the Banking Program and Credit Union Program to address the results of the economic downturn on the financial industry

VOTE:

2180 Department of Corporations

Departmental Overview and Mission. The Department of Corporations (DOC) administers and enforces State laws regulating securities, franchise investment, lenders, and certain fiduciaries. The budget is divided into two operating programs. The Investment Program is responsible for the qualification of the offer and sale of securities in California and the licensing and regulation of broker-dealers and investment advisers. The Lender-Fiduciary Program licenses and regulates California finance lenders, mortgage lenders, escrow agents, deferred deposit transaction entities (including "payday" lenders), and check sellers.

Budget Overview. The Governor proposes total expenditures of $43.9 million (no General Fund) and 330.2 positions, an increase of $7.7 million and 14.2 positions.

Issues Proposed for Vote Only:

Issue 1 – SAFE (BCP #1)

Governor's Budget Request. The Governor requests $1,285,000 in 2010-11 and $962,000 in 2011-12 and ongoing (State Corporations Fund) and 8.0 permanent positions to implement and enforce the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE) in California, per SB 36 (Calderon, 2009).

Staff Comment. Beginning July 30, 2010, mortgage loan originators employed by licensees of the DOC will have to meet uniform nationwide standards and be licensed through the Nationwide Mortgage Licensing System. SB 36 requires DOC to receive license applications through the Nationwide Mortgage Licensing System and process the license applications. Licensing individual mortgage loan originators is a new requirement for DOC. It is estimated there will be over 23,000 new licenses sought under the new statute. The new staff will process license applications, license renewals, and manage amendments to licenses.

Staff Recommendation. Approve

VOTE:

Issue 2 – Information Technology Workload Increase (BCP #2)

Governor's Budget Request. The Governor requests $324,000 in 2010-11 and $282,000 in 2011-12 and ongoing (State Corporations Fund) and 2.0 permanent positions to provide information technology support to the department.

Staff Comment. Since 2004-05, the Department of Corporations has received 82 new positions without corresponding growth in IT support staff. Of these new positions, 49 were restoration of positions eliminated in 2002 (IT support staff had also been cut in 2002, but not restored). The current IT staff is working overtime while tasks such as website maintenance are developing backlogs. Also, new state statute around regulatory functions is creating additional IT workload for developing automated processes.

Staff Recommendation. Approve

VOTE:

Issue 3 – Spring Finance Letter

Spring Finance Letter. The Governor's Spring Finance Letter proposes to transfer $20 million from the State Corporations Fund to the General Fund.

Staff Comment. This transfer would not be a loan. The DOC has been operating on deficit spending that, combined with the transfer, will bring the State Corporations Fund balance near zero in two years.

Staff Recommendation. Approve

VOTE:

2400 Department of Managed Health Care

Departmental Overview and Mission. 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.

Budget Overview. The Governor proposes $49.2 million (no General Fund) in total expenditures and 334.4 positions for the department – an increase of $6 million and ten positions.

Issues Proposed for Vote Only:

Issue 1 – OPA's Website and Annual Report Card Workload (BCP #1)

Governor's Budget Request. The Governor requests 2.0 permanent positions to work on programming and web development for the Office of the Patient Advocate (OPA) website and annual development of the Health Care Quality Report Care Portal. The position would be paid for with existing budget authority ($206,000 from Managed Care Fund).

Staff Comment. The OPA was employing outside contactors for web development related to the Health Care Quality Report Care Portal. The outside contract was let go in 2008, and workload was shifted in-house. Existing staff have been unable to meet all of OPA's IT workload needs. The contract dollars from the terminated web development contract would be used for the new staff.

Staff Recommendation. Approve

VOTE:

Issue 2 – Help Center's 24/7 Call Center Coverage (BCP #2)

Governor's Budget Request. The Governor requests 3.6 permanent positions to address new workload attributable to the cancellation of the External Call Center contract. The positions would be paid for with the funding previously used for the contract ($208,000 from Managed Care Fund).

Staff Comment. The DMHC was providing 24/7 call center services through an after-business hours contract. The contractor raised their rates dramatically and the contract was let go in January of 2009. After the contract was let go, the call center expanded its hours from 7:00 a.m. to 7:00 p.m. to capture 97 percent of all calls. The contract funds were used to hire student assistants. Under this proposal, the DMHC would let go of the student assistants and use the contract funds for permanent staff. Increased call center hours justify the new positions requested.

Staff Recommendation. Approve

VOTE:

Issue 3 – Conversion of Limited-Term Positions to Permanent (BCP #3)

Governor's Budget Request. The Governor requests $199,000 in 2010-11 and ongoing (Managed Care Fund) for making 2.0 limited-term positions permanent. The positions have been with the DMHC since 2006 and review license applications.

Staff Comment. In order for DMHC to retain enforcement authority, changes to licenses must by statute be reviewed within 30 days of receipt. The DMHC was provided temporary positions to review licenses in 2006. The DMHC has demonstrated that the workload for their licensing division has grown very slightly since then, thus justifying keeping the positions to process license applications.

Staff Recommendation. Approve

VOTE:

Issue Proposed for Discussion

Issue 4 – AB 9xxxx – Regional Centers (BCP #1)

AB 9xxxx. AB 9 of the 4th Extraordinary Session (Budget Committee, 2009) prohibits the Department of Developmental Services (DDS) Regional Centers (RCs) from providing services to consumers aged 3 and under unless the consumer can demonstrate that their health insurer has denied coverage for the services provided by the RC.

Background. There are 21 RCs throughout the State. The RCs provide services to approximately 240,000 Californians with disabilities. DDS has provided DMHC with the estimate that 60,000 individuals receiving services at RCs have some form of insurance coverage.

When a person who has insurance coverage through a provider licensed by DMHC is dissatisfied with a rejection of coverage for medical services, that consumer file an appeal. If the appeal is rejected, the consumer can file a complaint with DMHC to request an Independent Medical Review (IMR). If the IMR is decided in the consumer's favor, the health plan is required to provide the requested service. The DMHC estimates that of the 60,000 RC clients who have insurance, 18,000 are children under the age of 3. The DMHC estimates that of these individuals (through their parents), ten percent will file complaints with DMHC, thus generating additional workload.

Governor's Budget Request. The Governor requests $910,000 in 2010-11 and ongoing for nine positions to process consumer complaints against health insurance providers for not covering the developmental disability services provided by the RCs.

	2010-11
Managed Care Fund	$910,000
PY's	8.5

LAO Recommendation. The LAO has raised concerns to staff about the workload justification for this proposal.

Staff Comments. Additional workload would only be generated for the DMHC if RCs determine that the health plan denial has no merit and should be appealed. Families would appeal to the DMHC, which sets up an Independent Medical Review of the case. It is unlikely that RCs will force many families to appeal their health plans' decision to deny coverage.

The DMHC has seen an increase in autism-related cases in recent years: in 2006-07, the DMHC processed 61 autism-related cases and in 2008-09 it processed 163 such cases. However, the 163 existing cases are handled with existing staff.

To assume that up to ten percent of families would be dissatisfied with not having their private insurance plan cover the cost of the RC care, and seek appeals, is not reasonable. The RCs will provide the care for the children once the letter denying coverage is produced by the insurance plan. Thus the families who were denied by their health insurance providers for care would continue to receive care through RCs despite the denials. These families have no incentive to begin a lengthy appeals process when they are already receiving care. Thus, the workload generated by AB 9xxxx may be more in informing the public of the process and educating the RCs as to their legal responsibilities.

When AB 9xxxx was debated in the Senate, it was estimated to provide the State savings of $200 million.

Suggested Questions. In reviewing this proposal, the committee may wish to address the following questions to the Board.

- How was the number of individuals receiving treatment at RCs who have medical insurance determined?
- What could the department achieve with one position to work with RCs on understanding their legal responsibilities?

Staff Recommendation. Hold open.

VOTE:

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

Agenda Part "C"

Thursday, April 29, 2010
11:00 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Annis

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

AGENDA

Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	Business, Transportation, and Housing Agency (0520)			
1	Welcome Center	$29,000	Special fund	Approve
2	Small Business Loan Guarantee Staffing	$159,000	General Fund	Approve
3	Eliminate unfunded Manufacturing Tech Program (trailer bill)	na	na	Approve
4	Transfer of Small Business Advocate from Office of Planning and Research	$245,000	General Fund and special fund	Conform to Action on Office of Planning and Research
5	Clean Energy Business Financing Program	$901,000	Federal funds	Approve
	State Treasurer's Office (0950)			
1	Continuation of Staff for Cash Management	$103,000	reimbursements	Approve
	California Tax Credit Allocation Committee (0968)			
1	Federal Stimulus for Affordable Rental Housing	$250,000	Special fund	Approve
	California School Finance Authority (0985)			
1	Charter School Facilities Federal Grants	$125,000	Federal funds	Approve
	Control Section 15.45			
1	Technical Item for Redevelopment Funds	na	na	Approve
	Control Section 35.20			
1	Technical Item for 2007-08 Accrual Accounting	na	na	Delete Control Section

Vote Only Items – Issue Descriptions

Business, Transportation and Housing Agency (0520)

Department Overview: 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

Budget Overview: The Governor proposes total expenditures of $16.2 million ($4.4 million General Fund) and 67 positions for the BT&H Agency – a decrease $1.5 million and 0.5 new positions. The year-over-year change is primarily explained by a reduced estimate of reimbursements in 2010-11.

Issue 1 – Welcome Centers

Budget Request: The Agency requests a $29,000 on-going increase in appropriation authority from the Welcome Center Fund to support increased costs of designating six more California Welcome Centers. These program costs are covered by fees collected from the entities operating California Welcome Centers. The application fee is $1,000 and centers must pay $5,000 each year.

Staff Comment. This is a self-funded program, and this action merely reflects the expansion in the number of welcome centers.

Staff Recommendation: Approve Request.

Issue 2 – Small Business Loan Guarantee Program Staffing

Budget Request: The Agency requests $159,000 and 1.5 positions to staff the Small Business Loan Guarantee Program (SBLG). The SBLG provides guarantees on bank loans to small businesses. The guarantees are backed by a trust fund that can be leveraged up to five times. The state currently guarantees a portion of more than $276 million in outstanding loans.

Staff Comment. In last year's budget (AB 12, Chapter 12, Statutes of 2009), all new loan guarantees were suspended and all funds not needed to back existing loans were swept. Administrative funding at the BT&H Agency was cut in half for 2009-10 to a level of $285,000. Subsequently, new legislation (SB 66, Chapter 637, Statutes of 2009) was passed that allowed new loan guarantees to be made once $8.3 million had been swept back to the GF. This means that instead of gradually eliminating the program, administrative costs will continue, as requested here-in. Support costs were previously paid by the small business expansion fund, but the Agency argues that the transfer of funds to the General Fund has reduced the balance of the fund to that which is required to be on deposit to back existing loan guarantees. The staffing and funding request is consistent with the actions the Legislature took last year in passing AB 12 and SB 66.

Staff Recommendation: Approve Request.

Issue 3 – Eliminate Unfunded Manufacturing Tech Program in Statute

Budget Request: The Governor proposes elimination of the Manufacturing Technology Program (MTP) in statute, resulting in a reduction in reimbursement authority of $2.1 million.

Staff Comment: The MTP was originally established by legislation in 1993 within the Trade and Commerce Agency. The MTP was a competitive grant program that used General Funds and reimbursements to match federal grants to encourage manufacturing investment in California. General Fund support of the program was eliminated when the Technology, Trade and Commerce Agency was abolished in 2003-04. While the program moved to the BT&H Agency and the budget continued to reflect $2.0 million in reimbursements, the program was unable to function without the General Fund support. Approval of this budget request would conform the budget and statute to the fact that this program is long-dormant. If the Legislature identifies funds in the future to resurrect this program, the budget and statute can again be modified accordingly.

Staff Recommendation: Approve Request.

Issue 4 – Transfer of Small Business Advocate

Budget Request: The Governor requests $206,000 and 2.0 positions to fund the transfer of the Office of the Small Business Advocate, currently housing the Governor's Office of Planning and Research (OPR) to the Business, Transportation and Housing Agency.

Staff Comment: The Office of the Small Business Advocate was created in 1996 to assist small businesses in dealing with state government and advocate their desires to state agencies and the Legislature. In the LAO recommendation regarding the elimination of OPR, they recommend rejection of this transfer of positions. The elimination of the OPR was heard at the April 22 hearing and the issue was held open. The BT&H Agency budget should be modified, as necessary to conform to the Subcommittee's final action on the OPR proposal.

Staff Recommendation: Conform to future action on Office of Planning and Research.

Issue 5 – Clean Energy Business Financing Program

Budget Request: The Governor proposes increasing reimbursement authority for the Agency by $901,000 to contract with Financial Development Corporations to provide loan underwriting, packaging, and servicing in support of the Clean Energy Business Financing Program. This program is run by the California Energy Commission with ARRA funding.

Staff Comment: Staff has coordinated with the Consultant in Subcommittee #2, where the California Energy Commission's budget is heard, and this BT&H Agency action is consistent with the action for the Energy Commission.

Staff Recommendation: Approve Request.

State Treasurer's Office (0950)

Department Overview: 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.

Budget Overview: The Governor proposes expenditures of $26.8 million ($4.3 million General Fund) and 231.6 positions – an increase of $739,000 (a General Fund decrease of $416,000) and a decrease of one position. The year-over-year budget reduction is primarily a result of one-time employee compensation savings in 2009-10.

April Trailer-Bill Language: The Treasurer's Office submitted two April budget requests for trailer bill language related to the Local Agency Investment Fund reimbursement cap and the redemption of past-due general obligation bonds. Those requests will heard in Budget Subcommittee #5 which handles cash issues.

Issue 1 – Continuation of Staff for Cash Management

Budget Request: The Treasurer's Office requests the continuation of one position and $103,000 (reimbursements) to handle the workload for the Bank Reconciliation Section. This position was established as a two-year limited term.

Staff Comment: The State's cash situation continues to be a challenge and the need for close review and monitoring of cash by the State Treasure, the State Controller, and the Department of Finance will likely continue for some period of years.

Staff Recommendation: Approve Request.

California Tax Credit Allocation Committee (0968)

Department Overview: The mission of the Tax Credit Allocation Committee is to form public/private partnerships to assist in the development and maintenance of quality rental housing communities affordable to low-income Californians. The Treasurer's Office provides administrative support to the Committee.

Budget Overview: The January Governor's Budget for the Committee is $5.0 million (various special funds) and 35.0 positions, which is similar to the current-year budget.

Issue 1 – Federal Stimulus for Affordable Rental Housing

Budget Request: The Committee requests $250,000 in federal expenditure authority to contract with the California Housing Finance Authority (CalHFA) to complete the processing of $1.1 billion in loans administered pursuant to the ARRA during the 2009-10 fiscal year.

Staff Comment: This is consistent with prior-year actions by the Legislature.

Staff Recommendation: Approve Request.

California School Finance Authority (0985)

Department Overview: The California School Finance Authority oversees the statewide system for the sale of revenue bonds to reconstruct, remodel, or replace existing school buildings, and to acquire new school sites and buildings to be made available to public school districts, charter schools, and community colleges, and to provide access to financing for working capital and capital improvements.

Budget Overview: The January Governor's Budget for the Authority is $21.2 million (various special funds and federal funds) and 5.0 positions, an increase of $9.3 million and no change in positions. The year-over-year budget increase is due to an increase in federal funds.

Issue 1 – Charter School Facilities Federal Grants

Budget Request: The Authority requests federal expenditure authority to administer $46.1 million in federal funds received through the Federal Charter School Facilities Incentive Grants Program. This program allows the Treasurer's office to use up to five percent of the award toward administrative costs. These funds will be administered over the next five years.

Staff Comment: This is consistent with prior-year actions by the Legislature.

Staff Recommendation: Approve Request.

Control Section 15.45 – Technical Item for Redevelopment Funds

Budget Request: In an April Finance Letter, the Administration proposes to add Control Section 15.45 to create a mechanism for the State Controller's Office to offset General Fund expenditures with $350 million in tax increment revenues that will be received from Redevelopment Agencies pursuant to budget actions last year.

Staff Comment: This exact language was included in last year's budget, but was inadvertently left out of this year's budget proposal. This Control Section implements the technical mechanism necessary to enable the state to achieve the intended savings of $350 million, pursuant to last year's budget actions.

Staff Recommendation: Approve the request.

Control Section 35.20 – Technical Item, 2007-08 Accrual Accounting

Budget Request: The Governor's January Budget Bill included this technical control section that defines a change in accrual accounting practices for the 2007-08 fiscal year.

Staff Comment: This control section relates to the 2007-08 fiscal year and is not necessary for the 2010-11 budget bill. The Department of Finance concurs with the deletion of this control section.

Staff Recommendation: Delete this control section.

Budget Issues for Discussion and/or Vote

Local Government Funding Items (9100 & 9350)

These Budget Items provide the mechanism for specified funding of local government. There are no state staff directly funded by these items, however some state departments, such as the State Controller, receive funds for their administrative work in calculating and making the required transfer of funds to local governments.

Summary of Budget Item 9100: The 9100 budget item includes several programs that provide property tax relief by: (1) making payments to individuals to partially offset their property tax payment (or rent in the case of a renter), and (2) making payments to local governments to help defray revenues lost as a result of tax relief programs. There are five tax relief programs in this item, and the funding amount indicated is the amount budgeted for 2010-11:

- Senior Citizens' Property Tax Assistance ($0)
- Senior Citizens' Property Tax Deferral Program ($0)
- Senior Citizen Renters' Tax Assistance Program ($0)
- Homeowners' Property Tax Relief ($442.2 million)
- Subventions for Open Space / Williamson Act ($1,000)

The Homeowners' Property Tax Relief program is constitutionally required, and therefore is fully funded. The Senior Citizens' programs have not been funded since the Governor's veto in the 2008-09 budget. The Williamson Act program has not been funded since the Governor's veto in the 2009-10 budget.

Summary of Budget Item 9350: The 9350 budget item apportions special monies collected by the State to local governments on the basis of statutory formulas. Of the $1.9 billion displayed in the Governor's budget, only $740,000 is General Fund. As indicated, the apportionments are generally statutory, and this year, there is no budget bill appropriation for this budget. Among the larger categories of allocation in this budget item are $1.7 billion in gas tax revenue allocated to local governments and $118 million in motor vehicle license fee funds that are not part of healthcare realignment.

Staff Comment on Local Government Funding Items: Significant budget cuts for General Fund relief have occurred in these budget items over the past few years. If the cuts to these budget items were fully restored, the additional General Fund cost would be approximately $250 million (about $40 million for the Williamson Act, and about $210 million for the Senior Citizens' Programs). Given that new and additional budget reductions will be required to balance the 2010-11 budget, it appears unlikely programs in this area can be restored this year.

(see next page for discussion items).

Issue 1 – Trailer Vehicle License Fee (part of 9350 Budget Item)

Budget Request: The Governor requests approval of trailer bill language to eliminate the General Fund backfill of $11.9 million for the trailer vehicle license fee apportionment to local governments. This budget item apportions revenue to cities and counties that lost Vehicle License Fee (VLF) revenue when the State converted from an un-laden weight system to a gross vehicle weight system for purposes of assessing VLF for commercial vehicles. This change conforms with the International Registration Plan, a reciprocity agreement among US states and Canada for payment of commercial license fees based on distance operated in each jurisdiction. This funding is deposited in the Local Revenue Fund to support local health and welfare programs.

Staff Comment: This backfill is associated with a state/local healthcare realignment implemented in 1991. The Governor had proposed a reduction in this apportionment in the 2008-09 budget; however, the Legislature rejected the reduction due to the association with the 1991 realignment. The realignment involved local governments assuming certain heathcare responsibilities from the State in exchange for specified revenues to support those programs. The LAO cautions against eliminating or reducing realignment funding. The Department of Finance indicates that they now believe the $11.9 million is actually outside the realignment calculation, but the department has not, to date, provided any statutory citations or other justification for this view.

Staff Recommendation: Reject this request.

Commission on State Mandates (8885)

Department Overview: 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 costs of the Commission, and appropriates non-education mandate payments to local governments.

Budget Overview: The January Governor's Budget proposed expenditures of $84.2 million ($81.5 million General Fund) and 11.0 positions, an increase of about $3.3 million over the adjusted current-year budget and no change in positions. The Governor's budget included the continuation of certain mandate suspensions and deferrals to generate General Fund savings of about $232 million. The savings measures included: (1) savings of $95 million by deferring payment of pre-2004 mandate claims; (2) savings of $77.3 million by suspending certain local mandates; and (3) savings of $59.8 million from deferring payment on expired mandates or some mandates exempt from the requirements of Proposition 1A of 2004. Under (2) above, most mandates were suspended with the exception of those related to law enforcement, elections procedures, open meeting requirements, and tax collection.

Action in the 8th Extraordinary Session: The Legislature approved most of the Governor's savings proposals in the 8th Extraordinary Session. However, two mandates were left open for further analysis and discussion in the Budget Subcommittee: (1) the Local Recreational Background Check mandate, and (2) the Crime Victims' Rights mandate. The Budget Committee's action on mandates in the 8th Extraordinary Session is retained as an action in this regular session. The Subcommittee is charged with reviewing the two mandates left open, and other mandate issues not covered in the 8th Extraordinary Session.

Issue 1 –Mandate Reports required by the 2009 Budget Act

Budget Issue: The 2009 Budget Act required the Administration to review three mandate areas for possible savings and report recommendations to the Legislature. The issues and recommendations were as follows:

1. Elections-related mandates: The Department of Finance (DOF) was required to consult with the California State Association of Counties (CSAC) to review all mandates related to elections and report to the Legislature by October 1, 2009. It was hoped that DOF and CSAC could come to an agreement on replacing the current mandates' parameters and guidelines (i.e. claiming of actual costs), with a reasonable reimbursement methodology (RRM) (i.e., claiming costs based on a standard per unit or other simplified methodology). Specifically, DOF proposed an RRM that would rebase elections reimbursements at the 2007-08 claims level minus a 15 percent cost reduction for audit findings and efficiency, and then grow this amount over time by the rate of inflation (the implicit price deflator). The counties did not agree to this RRM fearing postage and population growth might over time reduce any initial efficiencies.
2. Domestic Violence and Rape Counseling Mandates: The Department of Finance was required to work with the Department of Justice (DOJ) to review mandates related to domestic violence and rape counseling and report to the Legislature by January 1, 2010. It was hoped that DOF and DOJ could find some mandate costs that would overlap with voter-approved measures, and if appropriate, reallocating funding for these mandates to victims' assistance programs. The DOF report indicates that Marsy's Law (the Victims' Bill of Rights Act of 2008) requires certain victim-notification requirements that overlap with existing domestic violence and rape counseling notification mandates, such that if the Legislature repealed the duplicative requirements, a General Fund savings of $2.2 million annually would result (i.e., locals would be required to perform the activities under Marsy's Law, but the State would not reimburse the cost). DOF did not state a recommendation on repeal of duplicate requirements, but did recommend that if they were repealed, the savings be directed to General Fund relief.
3. Mandate Process Mandate: The Department of Finance was required to review the mandate reimbursement process mandate (the cost of filing mandate claims) and report to the Legislature by April 1, 2010, with recommendations to simplify the process to reduce costs. This report was still outstanding as this agenda was finalized.

Committee Questions: The Commission, the LAO, and the Department of Finance are all available to answer questions on these issues:

1. LAO – Please provide a brief overview of these reports and indicate any opportunities for cost savings.
2. DOF – Discuss any recommendations you have on these issues and how they differ from the LAO's recommendations.
3. DOF – When will the third report be provided?

Staff Recommendation: Keep open for pending report and further review.

Issue 2 – Mandate Issues left open in 8th Extraordinary Session Action

Budget Issue: In the 8th Extraordinary Session, the Legislature deferred action on two mandates in order to provide a more thorough review in subcommittee. The two mandates are as follows:

1. The Local Recreational Background Checks mandate: This is a newly determined mandate by the Commission. The law requires background screening of employees or volunteers at local operated parks, playgrounds, recreational centers, or beaches used for recreational purposes. Claimed costs are about $550,000 per year, and accumulated costs sum to $3.0 million. The Governor proposed to suspend this mandate for 2010-11, which would result in the deferral of the $3.0 million General Fund reimbursement and suspension of the requirement on locals for the 2010-11 fiscal year. **The LAO recommends** the Legislature reject suspension of the mandate, but the longer term savings be achieved, by amending statute to specify local agencies may offset their screening costs by charging applicants fees. If fees are allowable, and the Commission "redetermines" the mandate, then the state will no longer be required to reimburse costs. See also issue #4 on the following pages for more information on the "redetermination" process.
2. Crime Victim Rights mandate: This mandate was repealed as part of last year's budget actions because the provisions overlapped with Marsy's Law (the Victims' Bill of Rights Act of 2008). So the victim notification provisions remain in law, but the State no longer has to reimburse the cost, saving the General Fund about $600,000 per year. Under Marsy's Law, upon request, victims are notified of a plea bargain with the accused. Under the Crime Victim Rights mandate, notification of a plea bargain was sent to all victims, whether they requested notification or not. **The LAO had recommended** the action the Legislature adopted last year. This mandate is similar but distinct from the domestic violence and rape mandates on the prior page. Since this mandate was repealed last year, there is no budget issue, unless the Subcommittee wants to revisit last year's repeal.

Committee Questions: The Commission, the LAO, and the Department of Finance are all available to answer questions on these issues:

1. LAO – Please provide an overview of these issues and describe the General Fund savings options.
2. DOF / Commission – Discuss any recommendations you have on these issues and how they differ from the LAO's recommendations.

Staff Recommendation: Adopt the LAO recommendation to reject suspension of the Local Recreational Background Checks mandate and adopt local fee authority. Take no action on the Crime Victim Rights mandate (retain the status quo notification under Marsy's Law).

Issue 3 – April Finance Letter: In-Home Support Services II Mandate

Budget Request: In an April Finance Letter, the Administration requested an augmentation of $475,000 General Fund to pay the accumulated claims for the newly-determined mandate of In-Home Support Services II (IHSS II) Mandate. The IHSS II mandate has ongoing requirements for counties to operate advisory committees. The mandate also included one-time costs to establish an employer for IHSS workers, but that one-time activity has been completed in all counties. In the IHSS budget, about $1.7 million (General Fund) is provided for these advisory committees plus about $1.4 million in federal reimbursements. The ongoing mandate claim would only be a county's amount that exceeds base funding. Only one county filed a claim for 2007-08 to receive a reimbursement for costs in excess of base funding.

LAO Recommendation: The LAO recommends that the Legislature approve trailer bill language to make the IHSS advisory committees optional (Subcommittee #3 is reviewing this language) and also that the Legislature adopts the Administration's proposal to fund the prior mandate claims, rather than suspending or repealing. Another option raised by the LAO is to reduce the base IHSS advisory committee funding of $1.7 million by $475,000 and direct that savings to payment of the mandate.

Staff Comment: The DOF request to fund this mandate is counter to the general Administration direction to suspend most mandates. DOF indicates one consideration is the large program reductions for IHSS proposed in the Governor's Budget, and the idea that the advisory commissions could be helpful in implementing these program cuts. In additional to the DOF request and the LAO variation, the Subcommittee could go ahead and suspend the mandate – this would defer the payment of $475,000 General Fund in prior mandate claims. The baseline $1.7 million in the IHSS budget could be used to incentivize locals to continue the activity on a voluntary basis.

Staff Recommendation: Hold open and direct staff to continue to coordinate with Subcommittee #3 on this issue.

Issue 4 – Mandate Redetermination Process

Budget Issue: In 2009, the Third Appellate District Court ruled in *California School Boards Association v. State of California* that the Legislature's practice of referring mandates back to the Commission on State Mandates for redetermination was unconstitutional. The court's concern related to the separation of powers doctrine. Recognizing that the state needs a quasi-adjudicatory process to review dated mandate decisions in light of changing facts, circumstances, and legal thinking, the Legislature directed staff to work with the Administration on options for developing a new mandate redetermination process, responsive to the court's concerns.

Issue Background. Under current law, the state is not obligated to reimburse local governments for the costs of complying with federal mandates or with mandates imposed by voters through ballot initiatives. However, there is no redetermination process in statute that allows the Commission to review a prior mandate determination in the light of new federal mandates, ballot initiatives, or other relevant changes in law or legal thought. In AB 138 (Chapter 72, Statutes of 2005, Committee on Budget), the Legislature required the Commission to set aside its Open Meeting Act and Brown Act Reform determination and its Mandate Reimbursement Process I determination, due to an expectation that redetermination would find no state reimbursement obligation due to subsequent voter initiatives and other factors. The Commission redetermined these two mandates and found the activities no longer required state reimbursement. These redeterminations would have saved the State General Fund about $22 million annually; however, the *California School Boards Association v. State of California* decision invalidated the redeterminations. In the decision, the court explicitly recognized that the Legislature could establish a general process for the Commission to revise prior decisions in light of changes in law or circumstance, but concluded that legislation requiring the Commission to revisit specific individual decisions violates the separation of powers doctrine because the commission functions in a quasi-judicial capacity.

Staff Comment: The Commission has held several hearings on this issue, and has worked with the LAO and legislative staff to develop draft language on a new mandate redetermination process (see Attachment I at the end of this agenda). Given the separation-of-powers issue, the Legislature does not have a formal role in the draft language. Instead, the Legislature may be able to indicate legislative intent in the future, by *requesting* that the Department of Finance submit a request to the Commission to adopt a new test claim on a certain mandate. Adoption of the statutory language could save the state money by reducing mandate reimbursements, however, it is possible a redetermination could also result in a cost increase for the state.

Committee Questions: Both the Commission and the LAO are available to answer questions on this issue and on the draft statutory language:

1. What are some examples of situations where mandates should be redetermined?
2. What are the budgetary implications of adopting the mandate redetermination language?
3. Who, or what parties, could request the Commission adopt a new mandate test claim decision?

Recommendation: Hold open so the proposed statutory language can be further vetted, analyzed, and refined.

DRAFT LEGISLATION TO ESTABLISH A

MANDATE REDETERMINATION PROCESS

AND

AMEND GOVERNMENT CODE SECTIONS 17556 AND 17557

SECTION 1

ADD NEW SECTION 17570 TO THE GOVERNMENT CODE TO READ:

a. The commission may adopt a new test claim decision to supersede one previously adopted only upon a showing that the state's liability pursuant to Article XIII B, Section 6, subdivision (a) of the California Constitution and-Sections 17514 and 17556 of the Government Code has been modified based on a subsequent change in law.

b. For purposes of this section the following definitions shall apply:

(1) "Test claim decision" is defined as a decision of the Commission on State Mandates on a test claim filed pursuant to Government Code Section 17551 or a decision of the Board of Control, on a claim for state reimbursement filed under Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2227), and Article 3 (commencing with Section 2240) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code prior to January 1, 1985.

(2) A "subsequent change in law" is a change in "mandates law" or a change in law that effects a finding pursuant to Section 17556 of the Government Code. "Mandates law" is defined as published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates or addressing article XIII B, section 6 of the California Constitution, Government Code sections 17500 and following. "Mandates law" also includes statutory amendments to Government Code sections 17500 and following and amendments to article XIII B, section 6 of the California Constitution, except that a "subsequent change in law" does not include the amendments to article XIII B, section 6 of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to Section 17551, subdivision (a).

c. A request to adopt a new test claim decision pursuant to this section may be filed by a local agency or school district, statewide association of local agencies or school districts, or the Department of Finance, Controller or other affected state agency.

d. The commission shall adopt procedures for receiving requests to adopt a new test claim decision pursuant to this section and for providing notice and a hearing on those requests. The procedures shall do all of the following:

(1) Provide for presentation of evidence and legal argument by the requestor, interested parties, the Department of Finance, and any other affected state agency, and interested person.

(2) Permit the hearing to be postponed at the request of any party, without prejudice, until the next scheduled hearing.

(3) Specify that all requests for adoption of a new test claim decision shall be filed on a form prescribed by the commission that shall contain at least the following elements and documents:

(a) The name, case number, and adoption date of the prior test claim decision.

(b) A detailed analysis of how and why the state's liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution and Sections 17514 and 17556 has been modified.

(c) The actual or estimated amount of the annual statewide change in the state's liability for mandate reimbursement pursuant to Article XIII B, Section 6 of the California Constitution and Sections 17514 and 17556.

(d) Identification of all of the following, if relevant:

1. Dedicated state funds appropriated for this program
2. Dedicated federal funds appropriated for this program
3. Fee authority to offset the costs of this program
4. Federal law
5. Court Decision
6. State or local ballot measure and date of election

(e) All assertions of fact shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information or belief, and be signed by persons who are authorized and competent to do so, as follows:

1. Declarations of actual or estimated annual statewide costs that will or will not be incurred to implement the alleged mandate.
2. Declarations identifying all local, state, or federal funds, or fee authority that may or may not be used to offset the increased costs that will or will not be incurred by claimants to implement the alleged mandate or result in a finding of no costs mandated by the state pursuant to Section 17556.
3. Declarations describing new activities performed to implement specific provisions of the test claim statute or executive order alleged to impose a reimbursable state-mandated program.
4. Specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program.

(f) The request for adoption of a new test claim decision shall be signed at the end of the document, under penalty of perjury by the requestor or its authorized representative, with the declaration that the request is true and complete to the best of the declarant's personal knowledge, information, or belief. The date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address shall be included.

(g) If a completed request is not received by the commission within 30 calendar days from the date an incomplete request was returned by the commission, the original filing date may be disallowed.

e. A request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year.[1]

f. If the commission adopts a new test claim decision that supersedes the one previously adopted and shows that the state's liability for mandate reimbursement pursuant to

[1] This language is consistent with Government Code section 17557, subdivision (e).

Article XIII B, Section 6 of the California Constitution and Sections 17514 and 17556 has been modified, the commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Sections 17557, 17557.1-17557.2.

g. Any new parameters and guidelines adopted or amendments made to existing parameters and guidelines or reasonable reimbursement methodology shall conform to the new test claim decision adopted by the commission.

h. The State Controller shall follow the procedures in Sections 17558, 17558.5, 17560, 17561, and 17561.5, as applicable to the new test claim decision adopted by the commission pursuant to this section.

i. If the commission adopts a new test claim decision which will result in reimbursement pursuant to Article XIII B, Section 6 of the California Constitution and Sections 17514 and 17556, it shall determine the amount to be subvened to local agencies and school districts by adopting a new statewide cost estimate pursuant to Section 17557.

j. The commission shall notify the Legislature pursuant to Section 17555 within 30 days of adopting a new test claim decision pursuant to this section, and report to the Legislature pursuant to Sections 17600 and 17601.

SECTION 2

ADD NEW SECTION 17572 TO THE GOVERNMENT CODE TO READ:

Upon request of the commission, the State Law Library, State Library, and State Archives, shall provide at no charge, copies of legislative and regulatory records that may assist the commission in determining a claim pursuant to Section 17551 and a request to adopt a new decision to supersede a test claim decision pursuant to this chapter.

AMENDMENTS TO EXISTING LAW

SECTION 3

AMEND SECTION 17556 OF THE GOVERNMENT CODE TO READ:

§ 17556. Findings

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

(a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this subdivision. <u>This subdivision applies regardless of whether the resolution from the governing body or a letter from a delegated representative of the governing body was adopted or sent prior to or after the date on which the state statute or executive was enacted or issued.</u>

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. <u>This subdivision applies regardless of whether the charges, fee, or assessment authority was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.</u>

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. <u>This subdivision applies regardless of whether the (1) offsetting savings that result in no net costs were enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued, or (2) the additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate was appropriated before or after the date on which the statute or executive order was enacted or issued.</u>

(f) The statute or executive order imposes duties that are necessary to implement, ~~reasonably within the scope of,~~ or expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

SECTION 4

AMEND SECTION 17557 OF THE GOVERNMENT CODE TO READ:

(a) If the commission determines there are costs mandated by the state pursuant to Section 17551, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. <u>The proposed parameters and guidelines may include proposed reimbursable activities that are reasonably necessary for the performance of the state-mandated program.</u> At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 30-day period is justified.

(b) In adopting parameters and guidelines, the commission may adopt a reasonable reimbursement methodology.

(c) The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred. However, the commission may not specify in the parameters and guidelines any fiscal year for which payment could be provided in the annual Budget Act.

(d) A local agency, school district, or the state may file a written request with the commission to amend~~, modify, or supplement the~~ parameters or guidelines. The commission may, after public notice and hearing, amend~~, modify, or supplement~~ ~~the~~ parameters and guidelines. A parameters and guidelines amendment submitted within 90 days of the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, shall apply to all years eligible for reimbursement as defined in the original parameters and guidelines. A parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims, as specified in the claiming instructions pursuant to Section 17561, and on or before the claiming deadline following a fiscal year, shall establish reimbursement eligibility for that fiscal year. <u>A request to amend parameters and guidelines may be filed to make any of the following changes to parameters and guidelines:</u>

(1) <u>Delete any reimbursable activity that is repealed by statute or executive order after the adoption of the original or last amended parameters and guidelines.</u>

(2) <u>Update offsetting revenue and offsetting savings that apply to the mandated program and do not require a new legal finding that there are "no costs mandated by the state" under Section 17556, subdivision (e).</u>

(3) <u>Include a reasonable reimbursement methodology for all or some of the reimbursable activities.</u>

(4) <u>Clarify reimbursable activities consistent with the original statement of decision.</u>

(5) Add new reimbursable activities that are reasonably necessary for the performance of the original state-mandated program

(6) Define what is not reimbursable consistent with the original statement of decision.

(7) Consolidate the parameters and guidelines for two or more programs.

(8) Amend the "boilerplate" language. For purposes of this section, "boilerplate" language is defined as the language in the parameters and guidelines that is not unique to the state-mandated program that is the subject of the parameters and guidelines.

(e) A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. The claimant may thereafter amend the test claim at any time, but before the test claim is set for a hearing, without affecting the original filing date as long as the amendment substantially relates to the original test claim.

(f) In adopting parameters and guidelines, the commission shall consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

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

OUTCOMES for Agenda Part "C"

Thursday, April 29, 2010
11:00 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Annis

AGENDA

Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	Business, Transportation, and Housing Agency (0520)			
1	Welcome Center	$29,000	Special fund	Approve
2	Small Business Loan Guarantee Staffing	$159,000	General Fund	Approve
3	Eliminate unfunded Manufacturing Tech Program (trailer bill)	na	na	Approve
4	Transfer of Small Business Advocate from Office of Planning and Research	$245,000	General Fund and special fund	Conform to Action on Office of Planning and Research
5	Clean Energy Business Financing Program	$901,000	Federal funds	Approve
	State Treasurer's Office (0950)			
1	Continuation of Staff for Cash Management	$103,000	reimbursements	Approve
	California Tax Credit Allocation Committee (0968)			
1	Federal Stimulus for Affordable Rental Housing	$250,000	Special fund	Approve
	California School Finance Authority (0985)			
1	Charter School Facilities Federal Grants	$125,000	Federal funds	Approve
	Control Section 15.45			
1	Technical Item for Redevelopment Funds	na	na	Approve
	Control Section 35.20			
1	Technical Item for 2007-08 Accrual Accounting	na	na	Delete Control Section

Vote Only Items – Issue Descriptions

Business, Transportation and Housing Agency (0520)

Department Overview: 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

Budget Overview: The Governor proposes total expenditures of $16.2 million ($4.4 million General Fund) and 67 positions for the BT&H Agency – a decrease $1.5 million and 0.5 new positions. The year-over-year change is primarily explained by a reduced estimate of reimbursements in 2010-11.

Issue 1 – Welcome Centers

Budget Request: The Agency requests a $29,000 on-going increase in appropriation authority from the Welcome Center Fund to support increased costs of designating six more California Welcome Centers. These program costs are covered by fees collected from the entities operating California Welcome Centers. The application fee is $1,000 and centers must pay $5,000 each year.

Staff Comment. This is a self-funded program, and this action merely reflects the expansion in the number of welcome centers.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

Issue 2 – Small Business Loan Guarantee Program Staffing

Budget Request: The Agency requests $159,000 and 1.5 positions to staff the Small Business Loan Guarantee Program (SBLG). The SBLG provides guarantees on bank loans to small businesses. The guarantees are backed by a trust fund that can be leveraged up to five times. The state currently guarantees a portion of more than $276 million in outstanding loans.

Staff Comment. In last year's budget (AB 12, Chapter 12, Statutes of 2009), all new loan guarantees were suspended and all funds not needed to back existing loans were swept. Administrative funding at the BT&H Agency was cut in half for 2009-10 to a level of $285,000. Subsequently, new legislation (SB 66, Chapter 637, Statutes of 2009) was passed that allowed new loan guarantees to be made once $8.3 million had been swept back to the GF. This means that instead of gradually eliminating the program, administrative costs will continue, as requested here-in. Support costs were previously paid by the small business expansion fund, but the Agency argues that the transfer of funds to the General Fund has reduced the balance of the fund to that which is required to be on deposit to back existing loan guarantees. The staffing and funding request is consistent with the actions the Legislature took last year in passing AB 12 and SB 66.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

Issue 3 – Eliminate Unfunded Manufacturing Tech Program in Statute

Budget Request: The Governor proposes elimination of the Manufacturing Technology Program (MTP) in statute, resulting in a reduction in reimbursement authority of $2.1 million.

Staff Comment: The MTP was originally established by legislation in 1993 within the Trade and Commerce Agency. The MTP was a competitive grant program that used General Funds and reimbursements to match federal grants to encourage manufacturing investment in California. General Fund support of the program was eliminated when the Technology, Trade and Commerce Agency was abolished in 2003-04. While the program moved to the BT&H Agency and the budget continued to reflect $2.0 million in reimbursements, the program was unable to function without the General Fund support. Approval of this budget request would conform the budget and statute to the fact that this program is long-dormant. If the Legislature identifies funds in the future to resurrect this program, the budget and statute can again be modified accordingly.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

Issue 4 – Transfer of Small Business Advocate

Budget Request: The Governor requests $206,000 and 2.0 positions to fund the transfer of the Office of the Small Business Advocate, currently housing the Governor's Office of Planning and Research (OPR) to the Business, Transportation and Housing Agency.

Staff Comment: The Office of the Small Business Advocate was created in 1996 to assist small businesses in dealing with state government and advocate their desires to state agencies and the Legislature. In the LAO recommendation regarding the elimination of OPR, they recommend rejection of this transfer of positions. The elimination of the OPR was heard at the April 22 hearing and the issue was held open. The BT&H Agency budget should be modified, as necessary to conform to the Subcommittee's final action on the OPR proposal.

Staff Recommendation: Conform to future action on Office of Planning and Research.

Action: *Conforms to final action on the Office of Planning and Research on a 3 – 0 vote.*

Issue 5 – Clean Energy Business Financing Program

Budget Request: The Governor proposes increasing reimbursement authority for the Agency by $901,000 to contract with Financial Development Corporations to provide loan underwriting, packaging, and servicing in support of the Clean Energy Business Financing Program. This program is run by the California Energy Commission with ARRA funding.

Staff Comment: Staff has coordinated with the Consultant in Subcommittee #2, where the California Energy Commission's budget is heard, and this BT&H Agency action is consistent with the action for the Energy Commission.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

State Treasurer's Office (0950)

Department Overview: 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.

Budget Overview: The Governor proposes expenditures of $26.8 million ($4.3 million General Fund) and 231.6 positions – an increase of $739,000 (a General Fund decrease of $416,000) and a decrease of one position. The year-over-year budget reduction is primarily a result of one-time employee compensation savings in 2009-10.

April Trailer-Bill Language: The Treasurer's Office submitted two April budget requests for trailer bill language related to the Local Agency Investment Fund reimbursement cap and the redemption of past-due general obligation bonds. Those requests will heard in Budget Subcommittee #5 which handles cash issues.

Issue 1 – Continuation of Staff for Cash Management

Budget Request: The Treasurer's Office requests the continuation of one position and $103,000 (reimbursements) to handle the workload for the Bank Reconciliation Section. This position was established as a two-year limited term.

Staff Comment: The State's cash situation continues to be a challenge and the need for close review and monitoring of cash by the State Treasure, the State Controller, and the Department of Finance will likely continue for some period of years.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

California Tax Credit Allocation Committee (0968)

Department Overview: The mission of the Tax Credit Allocation Committee is to form public/private partnerships to assist in the development and maintenance of quality rental housing communities affordable to low-income Californians. The Treasurer's Office provides administrative support to the Committee.

Budget Overview: The January Governor's Budget for the Committee is $5.0 million (various special funds) and 35.0 positions, which is similar to the current-year budget.

Issue 1 – Federal Stimulus for Affordable Rental Housing

Budget Request: The Committee requests $250,000 in federal expenditure authority to contract with the California Housing Finance Authority (CalHFA) to complete the processing of $1.1 billion in loans administered pursuant to the ARRA during the 2009-10 fiscal year.

Staff Comment: This is consistent with prior-year actions by the Legislature.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

California School Finance Authority (0985)

Department Overview: The California School Finance Authority oversees the statewide system for the sale of revenue bonds to reconstruct, remodel, or replace existing school buildings, and to acquire new school sites and buildings to be made available to public school districts, charter schools, and community colleges, and to provide access to financing for working capital and capital improvements.

Budget Overview: The January Governor's Budget for the Authority is $21.2 million (various special funds and federal funds) and 5.0 positions, an increase of $9.3 million and no change in positions. The year-over-year budget increase is due to an increase in federal funds.

Issue 1 – Charter School Facilities Federal Grants

Budget Request: The Authority requests federal expenditure authority to administer $46.1 million in federal funds received through the Federal Charter School Facilities Incentive Grants Program. This program allows the Treasurer's office to use up to five percent of the award toward administrative costs. These funds will be administered over the next five years.

Staff Comment: This is consistent with prior-year actions by the Legislature.

Staff Recommendation: Approve Request.

Action: *Approved on a 3 – 0 vote.*

Control Section 15.45 – Technical Item for Redevelopment Funds

Budget Request: In an April Finance Letter, the Administration proposes to add Control Section 15.45 to create a mechanism for the State Controller's Office to offset General Fund expenditures with $350 million in tax increment revenues that will be received from Redevelopment Agencies pursuant to budget actions last year.

Staff Comment: This exact language was included in last year's budget, but was inadvertently left out of this year's budget proposal. This Control Section implements the technical mechanism necessary to enable the state to achieve the intended savings of $350 million, pursuant to last year's budget actions.

Staff Recommendation: Approve the request.

Action: *Approved on a 3 – 0 vote.*

Control Section 35.20 – Technical Item, 2007-08 Accrual Accounting

Budget Request: The Governor's January Budget Bill included this technical control section that defines a change in accrual accounting practices for the 2007-08 fiscal year.

Staff Comment: This control section relates to the 2007-08 fiscal year and is not necessary for the 2010-11 budget bill. The Department of Finance concurs with the deletion of this control section.

Staff Recommendation: Delete this control section.

Action: *Deleted control section on a 3 – 0 vote.*

Budget Issues for Discussion and/or Vote

Local Government Funding Items (9100 & 9350)

These Budget Items provide the mechanism for specified funding of local government. There are no state staff directly funded by these items, however some state departments, such as the State Controller, receive funds for their administrative work in calculating and making the required transfer of funds to local governments.

Summary of Budget Item 9100: The 9100 budget item includes several programs that provide property tax relief by: (1) making payments to individuals to partially offset their property tax payment (or rent in the case of a renter), and (2) making payments to local governments to help defray revenues lost as a result of tax relief programs. There are five tax relief programs in this item, and the funding amount indicated is the amount budgeted for 2010-11:

- Senior Citizens' Property Tax Assistance ($0)
- Senior Citizens' Property Tax Deferral Program ($0)
- Senior Citizen Renters' Tax Assistance Program ($0)
- Homeowners' Property Tax Relief ($442.2 million)
- Subventions for Open Space / Williamson Act ($1,000)

The Homeowners' Property Tax Relief program is constitutionally required, and therefore is fully funded. The Senior Citizens' programs have not been funded since the Governor's veto in the 2008-09 budget. The Williamson Act program has not been funded since the Governor's veto in the 2009-10 budget.

Summary of Budget Item 9350: The 9350 budget item apportions special monies collected by the State to local governments on the basis of statutory formulas. Of the $1.9 billion displayed in the Governor's budget, only $740,000 is General Fund. As indicated, the apportionments are generally statutory, and this year, there is no budget bill appropriation for this budget. Among the larger categories of allocation in this budget item are $1.7 billion in gas tax revenue allocated to local governments and $118 million in motor vehicle license fee funds that are not part of healthcare realignment.

Staff Comment on Local Government Funding Items: Significant budget cuts for General Fund relief have occurred in these budget items over the past few years. If the cuts to these budget items were fully restored, the additional General Fund cost would be approximately $250 million (about $40 million for the Williamson Act, and about $210 million for the Senior Citizens' Programs). Given that new and additional budget reductions will be required to balance the 2010-11 budget, it appears unlikely programs in this area can be restored this year.

Action: *No action taken. This page is an informational item on local government funding. Public testimony was received in this area on the Williamson Act and the Chair indicated that issue was held open.*

Issue 1 – Trailer Vehicle License Fee (part of 9350 Budget Item)

Budget Request: The Governor requests approval of trailer bill language to eliminate the General Fund backfill of $11.9 million for the trailer vehicle license fee apportionment to local governments. This budget item apportions revenue to cities and counties that lost Vehicle License Fee (VLF) revenue when the State converted from an un-laden weight system to a gross vehicle weight system for purposes of assessing VLF for commercial vehicles. This change conforms with the International Registration Plan, a reciprocity agreement among US states and Canada for payment of commercial license fees based on distance operated in each jurisdiction. This funding is deposited in the Local Revenue Fund to support local health and welfare programs.

Staff Comment: This backfill is associated with a state/local healthcare realignment implemented in 1991. The Governor had proposed a reduction in this apportionment in the 2008-09 budget; however, the Legislature rejected the reduction due to the association with the 1991 realignment. The realignment involved local governments assuming certain heathcare responsibilities from the State in exchange for specified revenues to support those programs. The LAO cautions against eliminating or reducing realignment funding. The Department of Finance indicates that they now believe the $11.9 million is actually outside the realignment calculation, but the department has not, to date, provided any statutory citations or other justification for this view.

Staff Recommendation: Reject this request.

Action: *Issue held open.*

Commission on State Mandates (8885)

Department Overview: 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 costs of the Commission, and appropriates non-education mandate payments to local governments.

Budget Overview: The January Governor's Budget proposed expenditures of $84.2 million ($81.5 million General Fund) and 11.0 positions, an increase of about $3.3 million over the adjusted current-year budget and no change in positions. The Governor's budget included the continuation of certain mandate suspensions and deferrals to generate General Fund savings of about $232 million. The savings measures included: (1) savings of $95 million by deferring payment of pre-2004 mandate claims; (2) savings of $77.3 million by suspending certain local mandates; and (3) savings of $59.8 million from deferring payment on expired mandates or some mandates exempt from the requirements of Proposition 1A of 2004. Under (2) above, most mandates were suspended with the exception of those related to law enforcement, elections procedures, open meeting requirements, and tax collection.

Action in the 8th Extraordinary Session: The Legislature approved most of the Governor's savings proposals in the 8th Extraordinary Session. However, two mandates were left open for further analysis and discussion in the Budget Subcommittee: (1) the Local Recreational Background Check mandate, and (2) the Crime Victims' Rights mandate. The Budget Committee's action on mandates in the 8th Extraordinary Session is retained as an action in this regular session. The Subcommittee is charged with reviewing the two mandates left open, and other mandate issues not covered in the 8th Extraordinary Session.

Issue 1 –Mandate Reports required by the 2009 Budget Act

Budget Issue: The 2009 Budget Act required the Administration to review three mandate areas for possible savings and report recommendations to the Legislature. The issues and recommendations were as follows:

1. Elections-related mandates: The Department of Finance (DOF) was required to consult with the California State Association of Counties (CSAC) to review all mandates related to elections and report to the Legislature by October 1, 2009. It was hoped that DOF and CSAC could come to an agreement on replacing the current mandates' parameters and guidelines (i.e. claiming of actual costs), with a reasonable reimbursement methodology (RRM) (i.e., claiming costs based on a standard per unit or other simplified methodology). Specifically, DOF proposed an RRM that would rebase elections reimbursements at the 2007-08 claims level minus a 15 percent cost reduction for audit findings and efficiency, and then grow this amount over time by the rate of inflation (the implicit price deflator). The counties did not agree to this RRM fearing postage and population growth might over time reduce any initial efficiencies.

2. Domestic Violence and Rape Counseling Mandates: The Department of Finance was required to work with the Department of Justice (DOJ) to review mandates related to domestic violence and rape counseling and report to the Legislature by January 1, 2010. It was hoped that DOF and DOJ could find some mandate costs that would overlap with voter-approved measures, and if appropriate, reallocating funding for these mandates to victims' assistance programs. The DOF report indicates that Marsy's Law (the Victims' Bill of Rights Act of 2008) requires certain victim-notification requirements that overlap with existing domestic violence and rape counseling notification mandates, such that if the Legislature repealed the duplicative requirements, a General Fund savings of $2.2 million annually would result (i.e., locals would be required to perform the activities under Marsy's Law, but the State would not reimburse the cost). DOF did not state a recommendation on repeal of duplicate requirements, but did recommend that if they were repealed, the savings be directed to General Fund relief.

3. Mandate Process Mandate: The Department of Finance was required to review the mandate reimbursement process mandate (the cost of filing mandate claims) and report to the Legislature by April 1, 2010, with recommendations to simplify the process to reduce costs. This report was still outstanding as this agenda was finalized.

Committee Questions: The Commission, the LAO, and the Department of Finance are all available to answer questions on these issues:

1. LAO – Please provide a brief overview of these reports and indicate any opportunities for cost savings.
2. DOF – Discuss any recommendations you have on these issues and how they differ from the LAO's recommendations.
3. DOF – When will the third report be provided?

Staff Recommendation: Keep open for pending report and further review.

Action: *Issue held open.*

Issue 2 – Mandate Issues left open in 8th Extraordinary Session Action

Budget Issue: In the 8th Extraordinary Session, the Legislature deferred action on two mandates in order to provide a more thorough review in subcommittee. The two mandates are as follows:

1. The Local Recreational Background Checks mandate: This is a newly determined mandate by the Commission. The law requires background screening of employees or volunteers at local operated parks, playgrounds, recreational centers, or beaches used for recreational purposes. Claimed costs are about $550,000 per year, and accumulated costs sum to $3.0 million. The Governor proposed to suspend this mandate for 2010-11, which would result in the deferral of the $3.0 million General Fund reimbursement and suspension of the requirement on locals for the 2010-11 fiscal year. **The LAO recommends** the Legislature reject suspension of the mandate, but the longer term savings be achieved, by amending statute to specify local agencies may offset their screening costs by charging applicants fees. If fees are allowable, and the Commission "redetermines" the mandate, then the state will no longer be required to reimburse costs. See also issue #4 on the following pages for more information on the "redetermination" process.
2. Crime Victim Rights mandate: This mandate was repealed as part of last year's budget actions because the provisions overlapped with Marsy's Law (the Victims' Bill of Rights Act of 2008). So the victim notification provisions remain in law, but the State no longer has to reimburse the cost, saving the General Fund about $600,000 per year. Under Marsy's Law, upon request, victims are notified of a plea bargain with the accused. Under the Crime Victim Rights mandate, notification of a plea bargain was sent to all victims, whether they requested notification or not. **The LAO had recommended** the action the Legislature adopted last year. This mandate is similar but distinct from the domestic violence and rape mandates on the prior page. Since this mandate was repealed last year, there is no budget issue, unless the Subcommittee wants to revisit last year's repeal.

Committee Questions: The Commission, the LAO, and the Department of Finance are all available to answer questions on these issues:

1. LAO – Please provide an overview of these issues and describe the General Fund savings options.
2. DOF / Commission – Discuss any recommendations you have on these issues and how they differ from the LAO's recommendations.

Staff Recommendation: Adopt the LAO recommendation to reject suspension of the Local Recreational Background Checks mandate and adopt local fee authority. Take no action on the Crime Victim Rights mandate (retain the status quo notification under Marsy's Law).

Action: *Approved Staff Recommendation on a 2 – 0 vote with Senator Negrete McLeod absent for the vote.*

Issue 3 – April Finance Letter: In-Home Support Services II Mandate

Budget Request: In an April Finance Letter, the Administration requested an augmentation of $475,000 General Fund to pay the accumulated claims for the newly-determined mandate of In-Home Support Services II (IHSS II) Mandate. The IHSS II mandate has ongoing requirements for counties to operate advisory committees. The mandate also included one-time costs to establish an employer for IHSS workers, but that one-time activity has been completed in all counties. In the IHSS budget, about $1.7 million (General Fund) is provided for these advisory committees plus about $1.4 million in federal reimbursements. The ongoing mandate claim would only be a county's amount that exceeds base funding. Only one county filed a claim for 2007-08 to receive a reimbursement for costs in excess of base funding.

LAO Recommendation: The LAO recommends that the Legislature approve trailer bill language to make the IHSS advisory committees optional (Subcommittee #3 is reviewing this language) and also that the Legislature adopts the Administration's proposal to fund the prior mandate claims, rather than suspending or repealing. Another option raised by the LAO is to reduce the base IHSS advisory committee funding of $1.7 million by $475,000 and direct that savings to payment of the mandate.

Staff Comment: The DOF request to fund this mandate is counter to the general Administration direction to suspend most mandates. DOF indicates one consideration is the large program reductions for IHSS proposed in the Governor's Budget, and the idea that the advisory commissions could be helpful in implementing these program cuts. In additional to the DOF request and the LAO variation, the Subcommittee could go ahead and suspend the mandate – this would defer the payment of $475,000 General Fund in prior mandate claims. The baseline $1.7 million in the IHSS budget could be used to incentivize locals to continue the activity on a voluntary basis.

Staff Recommendation: Hold open and direct staff to continue to coordinate with Subcommittee #3 on this issue.

Action: *Issue held open.*

Issue 4 – Mandate Redetermination Process

Budget Issue: In 2009, the Third Appellate District Court ruled in *California School Boards Association v. State of California* that the Legislature's practice of referring mandates back to the Commission on State Mandates for redetermination was unconstitutional. The court's concern related to the separation of powers doctrine. Recognizing that the state needs a quasi-adjudicatory process to review dated mandate decisions in light of changing facts, circumstances, and legal thinking, the Legislature directed staff to work with the Administration on options for developing a new mandate redetermination process, responsive to the court's concerns.

Issue Background. Under current law, the state is not obligated to reimburse local governments for the costs of complying with federal mandates or with mandates imposed by voters through ballot initiatives. However, there is no redetermination process in statute that allows the Commission to review a prior mandate determination in the light of new federal mandates, ballot initiatives, or other relevant changes in law or legal thought. In AB 138 (Chapter 72, Statutes of 2005, Committee on Budget), the Legislature required the Commission to set aside its Open Meeting Act and Brown Act Reform determination and its Mandate Reimbursement Process I determination, due to an expectation that redetermination would find no state reimbursement obligation due to subsequent voter initiatives and other factors. The Commission redetermined these two mandates and found the activities no longer required state reimbursement. These redeterminations would have saved the State General Fund about $22 million annually; however, the *California School Boards Association v. State of California* decision invalidated the redeterminations. In the decision, the court explicitly recognized that the Legislature could establish a general process for the Commission to revise prior decisions in light of changes in law or circumstance, but concluded that legislation requiring the Commission to revisit specific individual decisions violates the separation of powers doctrine because the commission functions in a quasi-judicial capacity.

Staff Comment: The Commission has held several hearings on this issue, and has worked with the LAO and legislative staff to develop draft language on a new mandate redetermination process (see Attachment I at the end of this agenda). Given the separation-of-powers issue, the Legislature does not have a formal role in the draft language. Instead, the Legislature may be able to indicate legislative intent in the future, by *requesting* that the Department of Finance submit a request to the Commission to adopt a new test claim on a certain mandate. Adoption of the statutory language could save the state money by reducing mandate reimbursements, however, it is possible a redetermination could also result in a cost increase for the state.

Committee Questions: Both the Commission and the LAO are available to answer questions on this issue and on the draft statutory language:

1. What are some examples of situations where mandates should be redetermined?
2. What are the budgetary implications of adopting the mandate redetermination language?
3. Who, or what parties, could request the Commission adopt a new mandate test claim decision?

Recommendation: Hold open so the proposed statutory language can be further vetted, analyzed, and refined.

Action: *Issue held open.*