



Senate Budget and Fiscal Review

Subcommittee No. 4 2010 Agendas, Pt 2

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A screenshot of a Microsoft Internet Explorer browser window. The address bar shows the URL: http://www.senate.ca.gov/ftp/SEN/COMMITTEE/STANDING/BFR/_home/Sub1/2004Sub1.pdf. The browser's menu bar includes File, Edit, View, Favorites, Tools, and Help. The Edit menu is open, showing options like Cut, Copy, Paste, Select All, and Find (on This Page)... Ctrl+F. The main content area displays the title page of the agenda, featuring the California State Senate seal on the left. The text reads: "California State Senate", "SENATE BUDGET & FISCAL REVIEW", "SUBCOMMITTEE No. 1", "Agenda", "March 8, 2004", and "Upon Adjournment of Session – Room 113". On the right side, it lists the chair and members: "EDUCATION", "JACK SCOTT, CHAIR", "BOB MARGETT", and "JOHN VASCONCELLOS". The browser's status bar at the bottom shows "2 of 272" pages and the system tray includes the Start button, taskbar icons for "Inbox - Micros...", "Inquiry System", "Document1 - ...", and the current time "10:50 AM".

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 6, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

Item Number and Title

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Items to Be Heard	
0250 Judicial Branch	6
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Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Judicial Branch (0250)				
1	Parking penalties	-	Trailer bill language	Approve
2	Penalty assessment adjustments	-	Trailer bill language	Approve
3	Long Beach Courthouse possessory tax exemption	-	Trailer bill language	Approve
Department of Justice (0820)				
1	Western State Information Network	-\$5,994,000 \$5,994,000	Federal Trust Fund Reimbursements	Approve
Department of Alcoholic Beverage Control (2100)				
1	Liquor license fee	\$394,200 (revenues)	Alcohol and Beverage Control Fund	Approve
California Law Revision Commission (8830)				
1	Funding shift	-\$666,000 \$666,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year
Commission on Uniform State Laws (8840)				
1	Funding shift	-\$148,000 \$148,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year

Vote Only Items – Issue Descriptions

Judicial Branch (0250)

Issue 1 – Parking Penalties Trailer Bill Language.

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 Administrative Office of the Courts (AOC) and the California State Association of Counties (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.

Issue 2 – Plumas and Sutter County Penalty Assessment Adjustments

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 courthouse construction funds. The AOC notes that the amount identified for Plumas County incorrectly states that the surcharge is \$5 when it should read \$7. Similarly, the amount identified for Sutter County is \$3 when it should read \$6. The AOC notes that Plumas County has otherwise been authorized to collect \$7 for this purpose since 1992.

Issue 3 – Long Beach Courthouse Possessory 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, potentially 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 from 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 for the share of the property operated by the courts. This language is modeled after existing law for another project (Streets and Highway Code Section 143(o)).

Department of Justice (0820)

Issue 1 – Western States Information Network

The department requests a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of \$5,994,000. The DOJ has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. This change necessitates the proposed technical adjustment to fund this program through reimbursement authority instead of federal funds.

Department of Alcoholic Beverage Control (2100)

Issue 1 – Liquor License Fee Adjustment

The administration proposes to increase the fee for a general liquor license 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. The current fee for a general liquor license is \$12,000. This fee was last adjusted in 1995.

California Law Revision Commission (8830)

Issue 1 – Funding Shift

The Governor's budget proposes to shift General Fund support of \$666,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

Commission on Uniform State Laws (8840)

Issue 1 – Funding Shift

The Governor's budget proposes to shift General Fund support of \$148,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

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.

Issue 1 – AOC Collections Trailer Bill Proposal

Background. On April 15th, the AOC presented several trailer bill proposals to the committee. One of the proposals, a package of changes to improve the state's system of court-ordered fine and fee collections, was still in development at that time. The AOC now reports that it has completed drafting its proposed trailer bill language.

Proposal Description. 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. Previously, staff had been informed that the language 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.

Staff Recommendation. Staff has received the proposed language only a couple of days before this agenda was prepared. At this time, staff raises no specific objections to the proposed language, but recommends holding the issue open to allow staff more time to review the language.

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.

Issue 1 – Gun Show Program Augmentation

Background. In 2000-01, DOJ received funding to establish an enforcement team for purposes of preventing sales of illegal firearms and ammunition by monitoring and investigating buyers and sellers participating in gun shows throughout California. This program currently has four agents assigned to it.

Governor's Budget Request. 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 Dealers' Record of Sales (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.

	2010-11
General Fund	-\$616,000
Dealer Record of Sale Account	\$801,000
PY's	0.9

Staff Comments. The DOJ reports that there are approximately 97 gun shows in California annually, ranging in size from 150 tables (vendors) to 5,300 tables per show. The department further reports that it has reduced its staffing of this program by 40 percent in recent years due to budget cuts. The proposed shift of the program from the General Fund to the DROS Account would result in General Fund savings of \$616,000. The Department of Finance projects the DROS Account to have a healthy fund balance of \$17.9 million at the end of the budget year, suggesting that the fund is fully capable of absorbing these additional costs.

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 – Headquarters Staffing - Oversight

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 letter further requested explanations for any significant changes in staffing or funding levels.

This issue was agendaized for the April 15th hearing, but the department asked for more time to complete their analysis and present it to the committee in writing.

Staff Comments. At the time this agenda was prepared, the department had not yet provided its analysis in response to the Chair's request for information. 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.

In addition the committee may wish to ask the department to respond to a related question raised at the April 15th hearing. At that hearing, the committee asked the department to report on the total staffing levels in the prison education and vocational programs, including the number that are line staff and supervisory positions.

Issue 2 – Options for Improving Budget Transparency and Accountability

Background. On March 23rd, the Senate and Assembly budget subcommittees with jurisdiction over the corrections budget held a joint hearing to discuss three legislative proposals designed to create more transparency and accountability in CDCR's budget. The three proposals are described below.

- **Budget Act Programs.** One method of achieving increased visibility into and accountability of a budget is to increase the detail in the annual Budget Act. Specifically, the Legislature could break up the large 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.

- **Annual Report on Performance and Outcomes.** Another approach to increasing budget transparency and accountability is to require the department to present the Legislature with an annual report that details its performance and outcomes of key department programs. The structure of such a report could include the following characteristics: (1) focus on key outcome performance measures, (2) be linked to budget programs, (3) provide data on trends over multiple years, (4) establish department goals, and (5) be made publicly available on the department's website.
- **Inmate Population Budget Process.** A third approach would be to transform the way the department budgets for changes in the inmate population. Rather than using a blanket ratio of six to one to make population based adjustments, as is currently done, the CDCR could develop staffing 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 custody 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. Importantly, this approach would allow the department to cease using the Institution Activation Schedule - a population management tool - for the budgeting, a purpose for which it is ill-equipped and adds unnecessary complexity.

At the March 23rd joint hearing, the committees directed the department and staff to continue to work on the development of specific language to implement the three proposals and present their progress to the subcommittees in early May. The purpose of this agenda item is to update the committee on the progress made to date on these three issues.

Staff Comments. Committee staff has continued to work with the department, LAO, DOF, and Assembly budget staff to continue to develop specific proposals to present to the committee. The status of each of the three proposals is discussed below.

- **Budget Act Programs.** At the direction of the committees, staff has continued to work towards identifying additional ways to delineate various budget activities to create greater budget detail and more accountability for how the department spends its budget appropriations. The administration has continued to raise concerns about the additional workload that could be created by this effort, particularly related to its accounting and budget systems. Staff has created a proposal that would increase the number of budget programs. Staff believes this approach should help to address the administration's workload concerns because it creates additional budget *programs* rather than additional budget *items*.
- **Annual Report on Performance and Outcomes.** At the March 23rd hearing, the department requested additional time to develop specific performance and outcome measures that would be consistent with the department's revised Strategic Plan which was being finalized at the time of that hearing. At the time this agenda was prepared, the department had not yet provided its analysis or proposal to the committee. The CDCR indicates that it may have more difficulty collecting certain performance information than previously anticipated.

- ***Inmate Population Budget Process.*** Staff has drafted budget bill language that requires CDCR to present its 2010-11 inmate population budget request utilizing staffing ratios, and prohibits the department from utilizing the Institution Activation Schedule for this purpose.

The committee may wish to ask the department and LAO to present the current status of these efforts as directed by the committee last month. The committee may further wish to direct the department and staff to prepare a final package of proposals to be adopted before conference committee.

**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
Senator Tom Harman
Senator Gloria Negrete McLeod

Assemblymember Warren Furutani, Chair
Assemblymember Juan Arambula
Assemblymember Julia Brownley
Assemblymember Paul Cook
Assemblymember Kevin Jeffries

Agenda

Joint Informational Hearing

California Department of Corrections and Rehabilitation: Options for Improving Operations and Outcomes

**Tuesday, May 11, 2010
1:30 p.m.
Room 4203**

**Consultants:
Brian Brown and Joe Stephenshaw**

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Panelists

Panel 1 – Historical Context and Analytical Framework

- Paul Golaszewski, Senior Fiscal and Policy Analyst, Legislative Analyst's Office

Panel 2 – Options for Improving Community Corrections

- Hon. Roger Warren, Scholar-in-Residence, Judicial Council of California
- Jerry Powers, Chief Probation Officer, Stanislaus County
- Jan Scully, District Attorney, Sacramento County and Chair, California Council on Criminal Justice

Panel 3 – Options for Improving Prison Operations and Outcomes

- Jeanne Woodford, Secretary (ret.), California Department of Corrections and Rehabilitation
- Barry Krisberg, Distinguished Senior Fellow and Lecturer in Residence, UC Berkeley School of Law
- Cindy Greer, Academic Instructor, Valley State Prison for Women
- Maurice Lee, Senior Vice President, Western Region, WestCare

Panel 4 – Options for Improving Reentry and Parole and Reducing Recidivism

- Susan Turner, UC Irvine Center for Evidence-Based Corrections
- Carolyn Eggleston, Director, CSU San Bernardino Center for Correctional Education
- Diane Boudreaux, Parole Agent, Parole Region III
- Rev. Raymond Lankford, Executive Director, Healthy Oakland

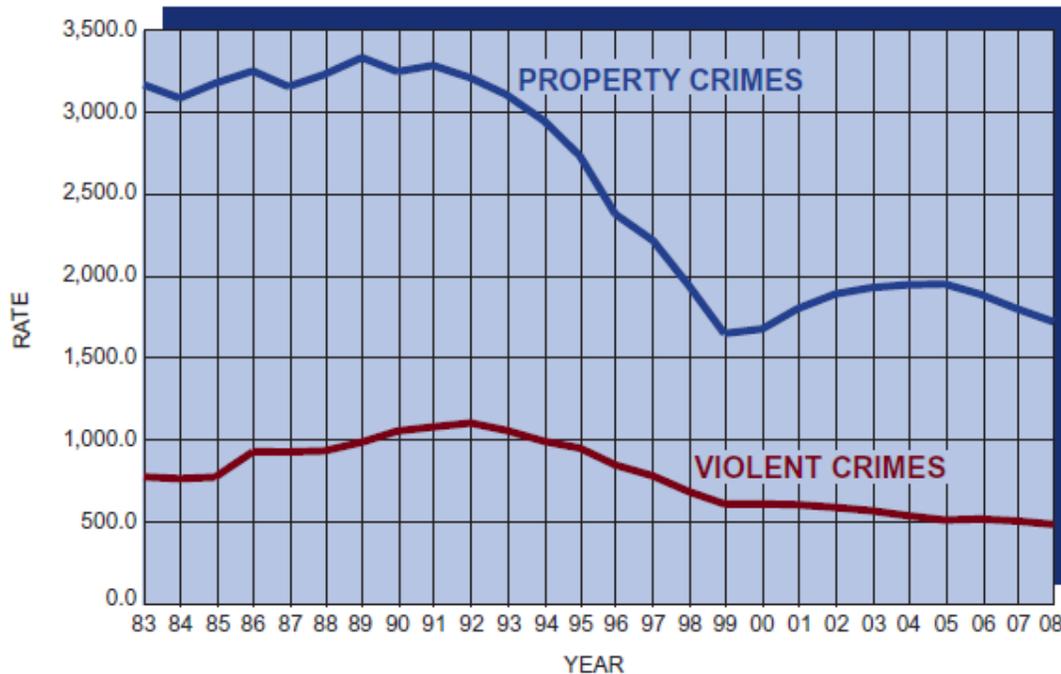
Panel 5 – The Fiscal Analysis

- Paul Golaszewski, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
- David Lewis, Deputy Director, Fiscal Services, California Department of Corrections and Rehabilitation

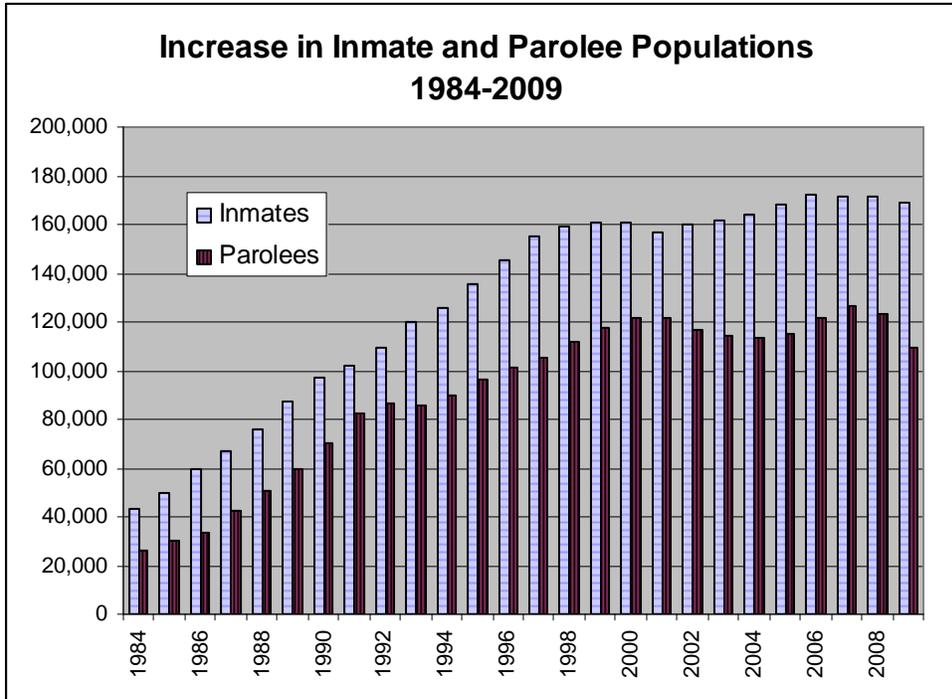
California Corrections in a Historical Context – Trends in Crime and Caseloads

Violent and Property Crime Rates Have Declined Over Past 25 Years. According to the most recent annual *Crime in California* report released by the Attorney General's office, the violent crime rate in California declined 37 percent between 1983 and 2008, and the property crime rate declined by 46 percent over that period. As shown in the figure below, most of these declines began in the early 1990s. These crime rate trends largely mirror a nationwide trend with both property and violent crime rates peaking nationally in 1991 and declining steadily ever since according to U.S. Department of Justice data. The table below shows the change in property and violent crime rates in California over the past 25 years.

CRIME TRENDS, 1983–2008
By Category
Rate per 100,000 Population



Adult Prison Population Grew Dramatically During 1980s and 1990s. As shown in the figure below, the prison population has increased by almost 300 percent in the 25 year period from 1984 to 2009 (from 43,000 to 169,000 inmates). Most of that significant increase occurred in the 1980s and 1990s with much slower growth occurring since the late 1990s. The parole population has grown at a similar pace over that period.



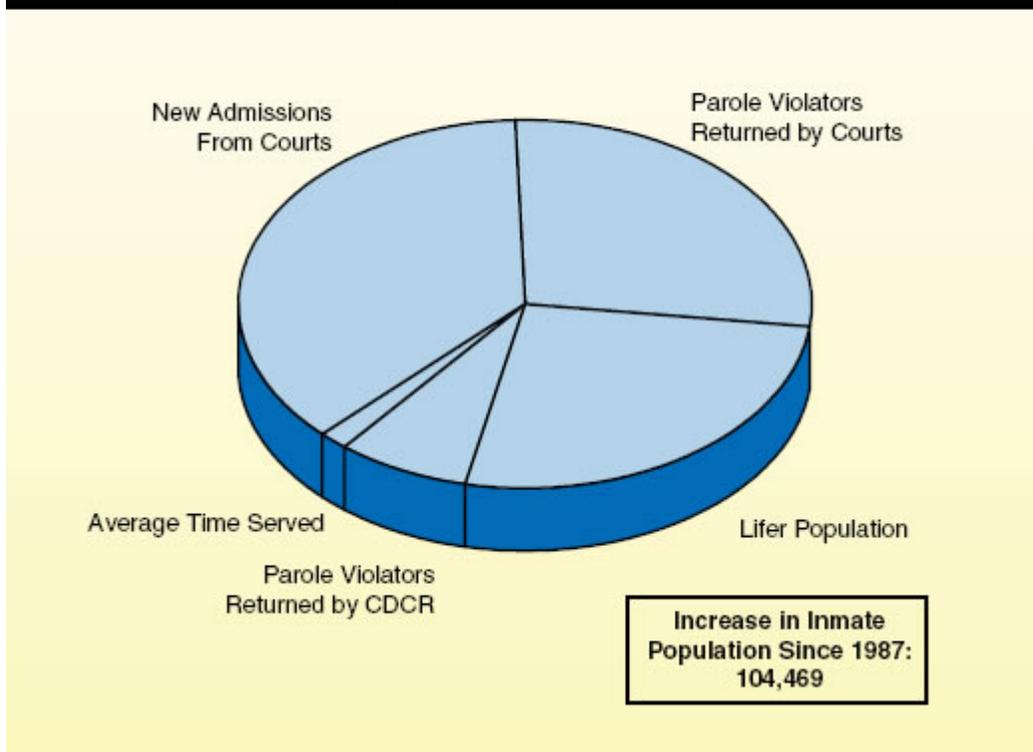
Interestingly, California’s local corrections systems – jails and probation – also increased during this period, though not nearly at the same rate as the increase in the state prison and parole populations. The local jail and probation populations have increased by about 73 percent since 1984. According to the Department of Justice, there were about 83,000 jail inmates and 342,000 adult probationers in 2008.

Prison Population Growth Driven Primarily by Court Admissions and Lifer Population.

In a recent report, *The 2009-10 Budget Analysis Series: Judicial and Criminal Justice*, the Legislative Analyst’s Office (LAO) reviewed historical data to identify what factors most contributed to the increase in the prison population. Looking at the 20 year period between 1987 and 2007, the LAO estimated that about two-thirds of the total increase in the prison population since 1987 was attributable to the increase in court admissions, including both new admissions and parole violators returned to prison by the courts. The increase in the lifer population contributed to an additional 26 percent of the population growth, and the increase in parole violators returned to prison by CDCR and the average time served in prison combined contributed to only about 9 percent of the growth. The figure below is taken from the LAO’s report and summarizes the share of the prison population increase that can be attributed to each of these explanatory factors.

Figure 6

Growth in Court Admissions Drove Two-Thirds of Increased Prison Population



The LAO further finds that changes in demographics and crime rates do not explain the increase in court admissions to prison. Between 1987 and 2007, California’s population of ages 15 through 44—the age cohort with the highest risk for incarceration—grew by an average of less than 1 percent annually, which is a pace much slower than the growth in prison admissions. As discussed above, the state’s crime rate actually decreased over the past two decades.

Instead, the LAO finds that arrest and prosecution data explain much of the increase in the prison population. Despite declining crime rates, the number of adult felony arrests has remained relatively stable over the past two decades. However, the number of felony charges filed, convictions achieved, and prison sentences ordered by the courts have significantly increased during the same time period. These outcomes suggest that law enforcement has increased the percent of felony crimes resulting in arrests. In addition, prosecutors have increased the proportion of (1) arrests resulting in prosecution, (2) charges resulting in a conviction, and (3) convictions resulting in a prison sentence. As a consequence, a felony arrest is almost twice as likely to result in a prison sentence than it was two decades ago. The table below illustrates these findings.

**Proportion of Arrests Resulting in
A Prison Term Has Increased**

Adult Felony Outcomes	1987	2007	Percentage Change In Factor
Arrests	423,000	457,000	+8%
Charges filed	197,000	280,000	+42%
Convictions	154,000	231,000	+50%
Prison sentences ^a	33,000	68,000	+106%
Percent of Arrests Resulting in Prison	8%	15%	+91%

^a Includes both new admissions and parole violators returned by the courts.

What Do All of These Trends Mean? According to the crime statistics collected by the Attorney General’s office, Californians are generally safer than they were 25 years ago with both violent and property rates being markedly lower today. However, the causes of these trends remain hotly debated in academic circles. Some have argued, for example, that tougher sentencing laws have caused the lower crime rates. While this is probably partly true – there probably is some “incapacitation effect” of removing criminals from the community – other research finds that the incapacitation effect is limited, for example for certain types of offenses. Moreover, it is notable that crime rates dropped nationwide, including in states where the prison population has not increased. New York is frequently held up as an example of this. Between 1991 and 2006, New York’s violent crime rate decreased by 66 percent, and its property crime rate dropped by 62 percent while the state’s prison population is about the same size now as it was in the early 1990s, about 60,000 inmates. Other factors that research finds are probably important in explaining changes in crime rates are demographics and policing strategies.

The data above also demonstrates the connectedness of various stakeholders in the state’s criminal justice system. Crime is local, and most criminal justice activities are operated at the local level. However, local law enforcement, prosecution, and corrections decisions can have a significant impact on the state corrections system, particularly with respect to the number of offenders sent to state prison. On the other hand, state sentencing law and many requirements are established at the state level, and the vast majority of offenders sent to state prison ultimately return to their local communities after completing their prison terms.

The LAO Framework for Evaluating Options

Three Phases of the Corrections System. In broad terms, there are three general phases of the state's correctional system: (1) the front-end community corrections system that includes the criminal courts, county probation, and local law enforcement; (2) state prisons; and (3) the parole system. While elements of these three phases are frequently run independently, some by local governments and others by the state, they are clearly interdependent. For example, many inmates sent to state prison are offenders who failed while on county probation. Prisons bear some responsibility for preparing inmates for release to parole supervision. And, those parolees who commit new crime have a direct impact on local law enforcement agencies and the courts.

Those looking for ways to address shortcomings in the state's correctional system can look at each of the three phases described above, but in doing so, it is important to remember that each of these phases are interrelated. Ultimately, improving the effectiveness of any one of these phases can have ancillary benefits for the other phases, but most importantly, addressing shortcomings in any of these phases has the potential to improve public safety.

Criteria for Evaluating Options. In its 2009 report, *The 2009-10 Budget Analysis Series: Judicial and Criminal Justice*, the LAO identifies a useful framework the Legislature can use in evaluating options for how best to improve corrections operations and outcomes, as well as reduce costs. This framework is outlined below. As with any type of budget action—whether in corrections or another state program—the Legislative Analyst's Office recommends that the Legislature carefully weigh the trade-offs inherent in various options. Each option carries different benefits, particularly in regard to the magnitude of state savings that can be achieved, as well as differing potential negative consequences or challenges to implementing the change. Below is a brief discussion of the five primary criteria the LAO thinks the Legislature should consider when evaluating various options:

- **Budget Savings.** What is the magnitude of savings that will be achieved? To what extent is the actual level of savings dependent on changes to department operations? How quickly will the savings level be achieved?
- **Public Safety.** How will the option affect public safety? Can any negative impacts to public safety be mitigated by the use of evidence-based correctional practices, such as risk assessments, community-based sanctions, and substance abuse and other treatment programs? Will the option help to reduce recidivism rates of offenders?
- **Prison Overcrowding.** To what extent will the option reduce prison overcrowding? To what extent does a particular population reduction option result in ancillary benefits, such as avoiding the need to build additional prison bed capacity? To what extent does a particular option facilitate improved prison operations for inmate health care services and other programs?
- **Ease of Implementation.** Does the option require only simple actions (like statutory changes) or something more complicated (like implementing a new program)? Will savings be delayed because of implementation requirements, such as to conduct reviews of inmates' case files or to lay off state workers?

- **Shift of Responsibilities to Local Governments.** Will the option increase local costs to incarcerate more offenders in county jails or supervise offenders on county probation? What impact will the option have on jail overcrowding? Will the option affect local law enforcement or court-related workload?

No Perfect Options. There are rarely, if ever, “perfect” options that produce only positive benefits with no trade-offs. Nearly all conceivable options to improve operations and reduce costs have some trade-offs. For example, options to reduce recidivism rates might require upfront implementation costs that the state cannot currently afford. Alternatively, sentencing options designed to reduce the inmate population might involve a shift of responsibilities to local governments or place additional risks to public safety, depending on how they were implemented. In general, the LAO recommends that the Legislature review various options with an eye towards identifying those options that (1) best meet legislative policy goals, including achieving state savings and assuring public safety, and (2) mitigate the potential negative trade-offs.

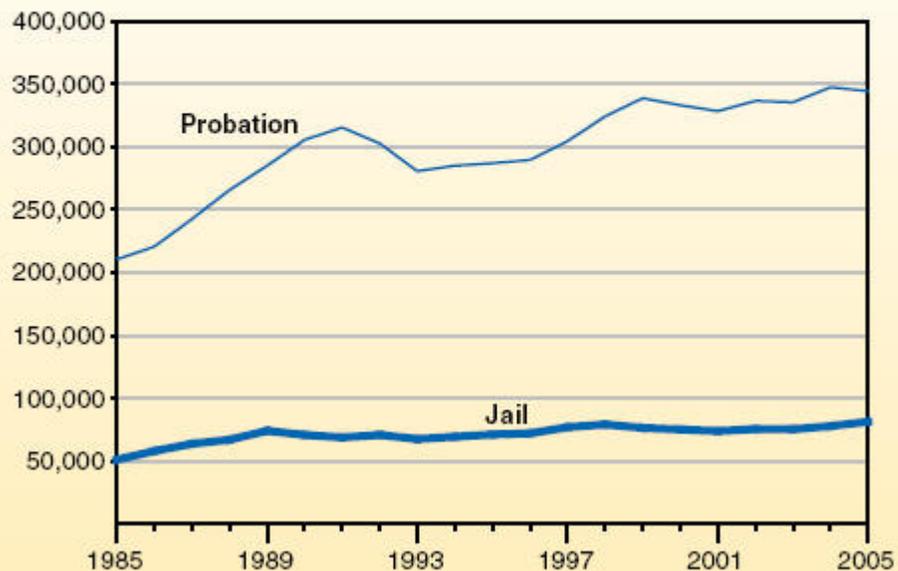
Options for Improving Community Corrections and Reducing Prison Admissions

Overview of California's Community Corrections System. The "front end" of the corrections system in California is made up of local law enforcement, county probation, and the state criminal courts. There were about 1.5 million arrests in California in 2008. Just over two-thirds of those arrests were for misdemeanor crimes or juvenile status offenses, and about one-third were for felonies. About 435,000 of that total number were adult felony arrests. There were 228,000 adult felony convictions in 2008.

Roughly 80 percent of offenders convicted of felonies in California are managed at the local level, typically receiving sentences of probation, jail, fines, or some combination of these. Most convicted felons managed locally are placed on probation. The table below shows the change in the jail and probation populations in California.

Growth in Adult Jail and Probation Populations

*Average Daily Population
1985 Through 2005*



Governor's Budget Options. The Governor's budget proposal includes a proposal that would significantly reduce the number of inmates sent to state prison each year. The Governor proposes to modify sentencing law by converting certain crimes that are "wobblers" – those that can be prosecuted as misdemeanors or felonies – to alternative sentencing structure that would make a felony conviction of the crime eligible for a maximum sentence of 366 days in county jail. The change would not apply to offenders with prior serious or violent felony convictions.

The Governor's budget proposal estimates budget year savings of \$292 million and an inmate population reduction of about 12,700 inmates who would instead serve time in local jails. In addition, the Governor's budget includes a "trigger" proposal that would add additional wobbler crimes to those changed under this proposal if a specified amount of federal funding is not achieved. If the trigger cut were implemented, it would result in an additional \$29 million in savings and a reduction of 2,300 additional inmates in state prison.

What Research Tells Us. According to a Pew Center study from 2009 (*Arming the Courts with Research*), 60 to 80 percent of all state felony defendants are placed on probation, fined or jailed in their local communities. Although the United States has the highest incarceration rate in the world, there are nearly three times more offenders on probation than in state prisons. Recidivism rates among these felony defendants are at unprecedented levels. Almost 60 percent have been previously convicted and more than 40 percent of those on probation fail to complete probation successfully. The high recidivism rate among felons on probation pushes up state crime rates and is one of the principal contributors to our extraordinarily high incarceration rates. High recidivism rates also contribute to the rapidly escalating cost of state corrections, the second fastest growing expenditure item in state budgets over the past 20 years.

The Pew Center report went on to state that for many years, conventional wisdom has been that "nothing works" to change offender behavior—that once an offender has turned to crime little can be done to help turn his or her life around. Today, however, there is a voluminous body of solid research showing that certain "evidence-based" sentencing and corrections practices do work and can reduce crime rates as effectively as prisons at much lower cost. A comprehensive study by the Washington legislature (*Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*), for example, showed that greater use of these evidence-based practices would reduce Washington's crime rate by 8 percent while saving taxpayers over \$2 billion in additional prison construction.

According to another Pew Center study from 2008 (*Putting Public Safety First*), high failure rates, the continued rise in prison costs, the release each year of more than 700,000 persons from confinement, and the mounting economic downturn—are all trends that present policy makers and corrections executives with a rare opportunity, even an imperative, to reform probation and parole in ways that will keep communities safe and save scarce public funds. Decades of learning in the field and a growing research base has led to a consensus among many corrections professionals about what needs to be done to achieve better results. The report cites that this consensus is reflected in the following 13 strategies: 1) Define Success as Recidivism Reduction and Measure Performance, 2) Tailor Conditions of Supervision, 3) Focus Resources on Higher Risk Offenders, 4) Frontload Supervision Resources, 5) Implement Earned Discharge, 6) Supervise Offenders in Their Communities, 7) Engage Partners to Expand Intervention Capacity, 8) Assess Criminal Risk and Need Factors, 9) Balance Surveillance and Treatment in Case Plans, 10) Involve Offenders in the Supervision Process, 11) Engage Informal Social Controls, 12) Use Incentives and Rewards, and 13) Respond to Violations with Swift and Certain Sanctions.

The Little Hoover report cites that the Legislature enacted the *Community-Based Punishment Act of 1994*, which established a partnership between state and local governments to create alternative punishments at the local level for prison-bound non-violent offenders. However, the collaboration has never been funded.

What other states are doing.

- **Hawaii** - Launched in 2004, Hawaii's Opportunity Probation with Enforcement (HOPE) program aims to reduce crime and drug use among criminal offenders. HOPE identifies probationers who are likely to violate their conditions of community supervision; notifies them that detected violations will have consequences; conducts frequent and random drug tests; responds to detected violations (including failed drug tests and skipped probation meetings) with swift, certain and short terms of incarceration; responds to absconding probationers with warrant service and sanctions; and mandates drug treatment upon request or for those probationers who do not abstain from drug use while on the testing and sanctions regimen.

According to a 2010 evaluation (*The Impact of Hawaii's HOPE Program on Drug Use, Crime and Recidivism*), in a one-year, randomized controlled trial, HOPE probationers were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs, 61 percent less likely to skip appointments with their supervisory officer and 53 percent less likely to have their probation revoked. As a result, they also served or were sentenced to, on average, 48 percent fewer days of incarceration than the control group.

- **Texas** - According to a 2010 report by the Texas Public Policy Foundation (*Texas Criminal Justice Reform*), in recent years, Texas has strengthened alternatives to incarceration for adults and juveniles, achieving significant reductions in crime while avoiding more than \$2 billion in taxpayer costs that would have been incurred had Texas simply constructed more than 17,000 prison beds that a 2007 projection indicated would be needed. This included a measure in 2003, in which the Legislature required that all drug possession offenders—not dealers—with less than a gram of drugs be sentenced to probation instead of state jail time.
- **Maryland** - Maryland's correctional options program shows that low-risk, non-violent offenders sentenced to probation with graduated sanctions and services were 22 percent less likely to re-offend than comparable offenders sentenced to prison.
- **Florida** - A 2009 act by the Florida Legislature provided that courts may place an offender into a post-adjudicatory treatment-based drug court program if the offender is not violent and met other specific conditions. In addition, Florida created a prison diversion pilot program in two judicial circuits, which provided funding to divert up to 300 felony offenders from prison in Fiscal Year 2009-10.

Drug courts are a proven alternative to incarceration for low level drug offenders. Drug courts offer intensive judicial oversight of offenders combined with mandatory drug testing and escalating sanctions for failure to comply. The average recidivism rate for those who complete drug court is between 4 percent and 29 percent, in contrast to 48 percent for those who do not participate in a drug court program. Other court diversion program options include Mental Health and Veteran's courts.

Alternative Options. The Governor's wobbler proposal is aimed at reducing state corrections costs given the state's fiscal problems. In addition to or instead of this approach, there are other options available to reduce the number of inmates that come to state prison, and in some cases, these approaches can actually result in improved corrections operations and public safety outcomes. For example, in 2009, the Legislature passed SB 678 (Leno) which required the state to provide a share of budget savings that result from counties reducing the number of probation failures sent to state prison. Counties would be required to reinvest this new revenue into bolstering evidence-based probation practices. The logic of this approach was to create a "win-win" for both the counties and state corrections systems by providing additional resources at the local level, requiring the use of evidence-based practices, and generating overall savings. The Legislature also approved the use of \$45 million in one-time federal stimulus money to provide the seed money for this initiative.

Another approach in a similar vein to SB 678 is to expand drug and mental health courts. Research has consistently demonstrated that these types of collaborative courts can effectively merge court supervision with needed treatment services to reduce recidivism of offenders. Moreover, these courts provide these improved outcomes at a cost less than that of incarceration. Currently, state courts operate drug court programs for about 3,000 offenders annually. Meanwhile, there are over 10,000 inmates in prison for drug possession. Moreover, research finds that 56 percent of inmates are in high need of drug treatment, 42 percent are in high need of alcohol treatment, and about 20 percent have mental health problems.

In the past, people have also discussed various sentencing changes that could reduce the number of inmates sent to state prison. Like the Governor's wobbler proposal, these are typically focused primarily on reducing state costs. However, in some cases, such approaches are arguably also proposed to be somewhat more cost-effective or maintain traditional divisions between state and local responsibilities. For example, updating the threshold separating grand theft from petty theft for inflation has been considered by the Legislature in the past. The current threshold of \$400 was established in 1982, and the impact of inflation is that people who would previously have been convicted of misdemeanors are now eligible for prison sentences. In addition, some have considered requiring that inmates who have less than a certain period of time served to remain in county jail rather than being sent to state prison. This could be a more cost-effective use of taxpayer money because the first couple of months inmates serve in state prison are served in expensive reception centers that provide a battery of health, mental health, and other assessments and screenings designed to determine the needs of the inmate during his prison term. These tests are not really necessary for inmates with no more than a few months to serve.

Finally, the Governor's wobbler proposal itself could be modified in various ways. For example, while the Governor proposes to redefine all wobbler crimes (including the trigger proposal), the Legislature could consider changing the definition of a subset of wobblers. For example, there are over 4,000 people in prison for a conviction of petty theft with a prior theft conviction. Another approach would be to change sentencing law for wobbler crimes to maintain them as wobblers, but make the presumption be that they are misdemeanors unless there are specific aggravating circumstances to charge them as felonies. Yet another approach would be to charge counties a share of the cost for sending offenders convicted of wobblers to state prison. This approach would require counties to share in the financial burden of housing these offenders.

Selected Options for Improving Community Corrections and Reducing Prison Admissions

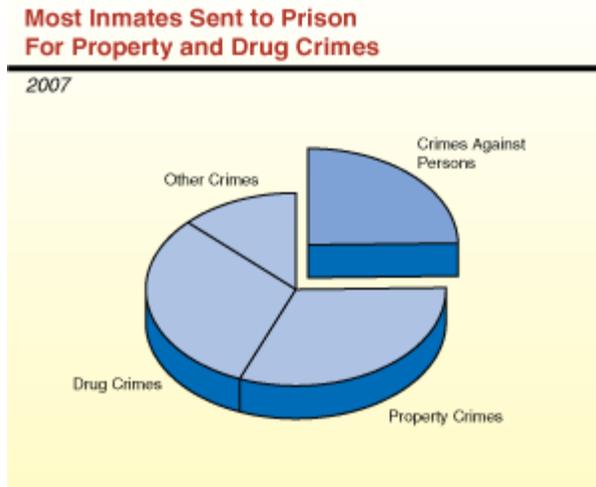
(Dollars in millions; prison population and savings figures estimated for 2010-11)

Option	Prison Pop. Impact	State Savings	Key Tradeoffs
Governor's wobbler sentencing changes*	-15,000	\$321	<ul style="list-style-type: none"> • Large state savings • Shift costs and overcrowding to locals • Modest impact on public safety
Expand drug and mental health courts	-1000	\$16	<ul style="list-style-type: none"> • Modest state savings in near term • Improves public safety • Minimal impact on locals • Significant effort to implement
Update grand theft threshold	-500	\$12	<ul style="list-style-type: none"> • Small state savings • Small shift of population to locals • Minimal impact to public safety
Less than 3 months to serve stay in jail	-250	\$6	<ul style="list-style-type: none"> • Small state savings • Minimal shift to locals • Minimal impact to public safety

* Includes proposed "trigger" expansion.

Options for Improving Prison Operations and Outcomes

Overview of Prison System. At the end of 2009, there were about 169,000 state inmates. This total is down slightly from prior years. As shown below, about two-thirds of inmates are sent to state prison for drug and property crimes.



The prison population is predominantly comprised of male black and Hispanic inmates age 20 through 39. Over the past twenty years the percentage of inmates who are Hispanic has grown by 11 percent, and the percentage of inmates who are 50 or older has more than doubled.

Demographics of the Prison Population

2007

	Prison Population	California Adult Population
Total Population	172,508	27,648,604
Gender		
Male	93%	49%
Female	7	51
Ethnicity		
Black	29%	6%
Hispanic	39	31
White	27	48
Other	6	15
Age		
18-19	1%	4%
20-29	30	19
30-39	30	19

40-49	26	21
50-59	10	17
60 and older	3	21

Details may not total due to rounding.

Governor’s Budget Options. The Governor’s budget assumes an increase of \$880 million in federal funds from the State Criminal Alien Assistance Program (SCAAP), a program where the federal government reimburses state and local governments for part of the costs associated with incarcerating illegal immigrants who have committed crimes. The state is currently projected to receive about \$91 million for this program in 2010-11.

The Governor’s budget includes a net reduction of \$279 million for inmate health care services in state prisons. This net figure includes proposals for increased expenditure authority to implement the federal Receiver’s Turnaround Plan of Action projects (\$323 million), as well as to fully fund anticipated contract medical costs (\$209 million). These costs are offset by an unallocated reduction of \$811 million to the inmate health care budget to bring average expenditures in this program in line with those of the state of New York. Neither the administration nor the Receiver’s office has identified a plan for how this magnitude of savings will be achieved, making the likelihood of achieving these savings unclear.

The Governor’s budget also includes a trigger cut proposal to eliminate all remaining, non-court ordered prison and rehabilitation programs. This cut would save the state about \$172 million. The proposal is not designed to improve corrections operations and, in fact, may have a long-term negative impact to public safety to the extent that these programs would otherwise reduce recidivism rates.

What Research Tells Us. According to a 2004 report from UCLA's School of Public Policy and Social Research (*Correctional Education as a Crime Control Program*), several studies have shown that prison education programs also significantly reduce crime. According to the report, once correctional education participants are released, they have been shown to be 10 to 20 percent less likely to re-offend than the average released prisoner. The study compared the cost-effectiveness of two crime control methods - educating prisoners and expanding prisons. It found that Correctional education is almost twice as cost-effective as a crime control policy. Finding that an investment of \$1 million in correctional education prevents about 600 crimes, while that same money invested in incarceration prevents 350 crimes. Further, the UCLA report found that correctional education may actually create long-run net savings. Inmates who participate in education programs are less likely to return to prison. For each re-incarceration prevented by education, states save about \$20,000. \$1 million invested in education would prevent 26 re-incarcerations, for net future savings of \$600,000.

A 2008 report from the LAO cited that, in addition to benefiting public safety by reducing recidivism and improving prison management, inmate education could have such fiscal benefits as reduced costs to state courts, local criminal investigations, and jail operations. The LAO also cited indirect fiscal benefits such as reduced costs for assistance to crime victims, less reliance on public assistance from families of inmates, and greater income and

sales tax revenues paid by former inmates who successfully remain in the community. The LAO report also identified significant concerns with CDCR's education programs. These concerns were (1) insufficient capacity to enroll inmates in education programs, (2) low inmate attendance rates, (3) the lack of incentives for inmate participation and achievement, (4) poor case management, and (5) lack of program evaluation. The LAO recommended that the Legislature take several steps to improve adult prison education programs in the near term. In particular, they recommend that the state fund these programs based on attendance rather than enrollment, develop incentives for inmate participation in programs, and develop routine case management and program evaluation systems. In addition, the LAO recommend that after the state has improved the structure of its existing programs, it consider some alternatives to expand the capacity of correctional education programs.

The CDCR created the Expert Panel on Adult Offender Reentry and Recidivism Reduction Programs in response to authorization language placed in the Budget Act of 2006-07. The Legislature directed the CDCR to contract with correctional program experts to complete an assessment of California's adult prison and parole programs designed to reduce recidivism. Additionally, the CDCR tasked the Panel to provide it with recommendations for improving the programming in California's prison and parole system. The expert panel's report: *A Roadmap for Effective Offender Programming in California* provided an assessment of the state of correctional programming in California's adult prison and parole systems. The report also included recommendations intended to guide California in creating a model rehabilitation programming system. The expert panel's 11 key recommendations were:

1. Reduce overcrowding in prison facilities.
2. Enact legislation to expand positive reinforcements for offenders who complete rehabilitation programs and follow the rules. CDCR must improve on matching offender needs with program objectives.
3. Select and utilize a risk assessment tool to assess an offender's risk to reoffend. Risk assessments tools have been utilized for parolees, and should be expanded to assess all offenders.
4. Determine offender rehabilitation programming based on the results of assessment tools that identify and measure risks and needs. CDCR should develop and utilize a risk-needs matrix to assign offenders to programming.
5. Create and monitor a behavior management (or case) plan for each offender. Case plans are critical to assigning offenders to the right programs.
6. Select and deliver a core set of programs for offenders that cover major offender areas. These include: academic, vocational and financial; alcohol and drugs; anger management; criminal thinking; family; and sex offenses.
7. Develop systems and procedures to collect and utilize programming process and outcome measures. This will allow CDCR to determine the effectiveness of programs, reasons for outcomes, and ways to improve.
8. Continue to develop and strengthen formal partnerships with community stakeholders. This will improve coordination of transition services for offenders moving from prison to their home communities.

9. Modify community based programs to ensure they target the crime patterns of offenders, meet their basic needs upon return, and identify risk factors in their home community.
10. Engage the community to help reduce likelihood offenders will return to a life of crime. Critical thinking, positive relationships, and healthy behaviors are critical to offenders' success upon release.
11. Develop structured guidelines to respond to technical parole violations, based on risk and seriousness. Sanctions and incentives are important tools.

Nationally, many states are taking steps to implement evidence based prison policies. According to a 2009 National Conference of State Legislatures report (*Cutting Corrections Costs: Earned Time Policies for State Prisoners*), other states are accelerating release of lower-risk inmates who complete education, vocational training, treatment and work programs or participate in other productive activities. At least 31 states provide incentives for program completion— called “earned time”—that reduce the costs of incarceration and help offenders succeed when they return to the community. Inmate prison terms are reduced from the date on which they might have been released had they not completed the specified programs. Earned time is distinguished from, and can be offered in addition to, “good time” credits, which are awarded to offenders who follow prison rules. This report offered the following evaluations from other states that offer some form of earned time credit:

- **New York** - New York's Department of Correctional Services reviewed the state's merit time program from 1997 through 2006. During that time, 24,000 inmates received six-month reductions in their minimum term, resulting in a savings of \$369 million. Another \$15 million in savings during a three-year period can be attributed to the need for less capital construction. The recidivism rate for the early-release group was lower (31 percent) than that for inmates serving the full term (39 percent) after three years.
- **Washington** - The Legislature modified the amount of earned time that could be granted to eligible inmates, increasing it from 33 percent to 50 percent of the total sentence. The law also specified which offenders would not be eligible for credit—offenders who have a current or prior conviction for a violent offense, a sex offense, a crime against a person, a domestic violence offense, a residential burglary, manufacture or delivery of methamphetamine, or delivery of a controlled substance to a minor. In addition to those exclusions, eligibility is further restricted to offenders in the Department of Corrections' two lowest risk categories. The three-year felony recidivism rate for offenders under the new 50 percent law was lower—by about 3.5 percent—than it was for offenders under the old law. This finding tells us that the 50 percent law has reduced new felony convictions in Washington. At the same time, the new law shortened the length of prison stay for the eligible offenders by an average of 63 days. It is important to note that Washington believes that as incarceration rates decrease due to this policy, property crimes may increase. However, even when accounting for this effect, Washington reports that this new earned time policy generates a net savings of about \$7,200 per offender.

- **Kansas** – In 2007 Kansas adopted a 60-day earned credit program for the successful completion of one of four programs: substance abuse treatment; a general education diploma; a technical or vocational training program; or any program its secretary of corrections believes will reduce a given inmate's risk of violating the conditions governing his eventual release. Since reforms took effect, Kansas has seen a 35 percent decrease in crime among parolees who participated in reentry programs. Parole revocations are down too, by 45 percent.

Alternative Options. Last year, the Governor proposed an alternative custody proposal that would have saved the state an estimated \$121 million. The specifics of this proposal were to provide early release for certain inmates and require intensive supervision by parole agents using Global Positioning Satellite (GPS) technology. While not adopted, this proposal would have generated significant state savings, and the impact to public safety by releasing inmates early would have been somewhat mitigated by the use of more intensive supervision techniques. It is worth noting that the effectiveness of such an approach could be further improved in a couple of ways. First, the selection criteria for alternative custody could be more focused on those inmates best suited to the program, for example those inmates who are found to be at low risk to reoffend and those that have completed in prison rehabilitation programs. Second, the intensive supervision could be coupled with requirements to participate in rehabilitation programs. Research consistently finds that intensive supervision can actually reduce rates of reoffending when coupled with effective treatment programs. These changes would likely reduce the amount of savings possible from alternative custody, but might provide a better balance with the potential public safety impacts.

Similarly, the state could reinstitute work and drug furlough programs which no longer exist for state inmates. These programs allow inmates to transition from state prison to the community by living in “halfway houses” during the end of their prison sentence, as well as require the inmates to maintain a job and/or participate in substance abuse treatment. These furlough programs tend to be less expensive than incarceration in state prison, and national research finds that they can reduce the rate of reoffending once released to the community.

One of the keys to improving prison (and parole) operations and outcomes is to improve the effectiveness with which programs are delivered. While many reports have focused on the high recidivism rate in California and cited the poor performance of CDCR programs as one of the culprits, the truth is that we do not really know how effective CDCR prison and parole programs are. This is because very few programs have been rigorously evaluated for the effectiveness on key community outcomes, such as recidivism and employment. Moreover, even those programs that are based on or similar to those programs shown in national research to be effective – such as inmate education and vocational programs, substance abuse treatment, and parolee employment programs – have not been regularly evaluated for the fidelity at adhering to the design requirements around instructor qualifications and training, participant selection criteria, and program duration. This means that the Legislature could be investing in the “right” programs without getting the expected outcomes. For example, numerous reports have highlighted the negative impact that lockdowns have had on the ability to get inmates to prison programs, even when those inmates played no role in the event causing the lockdown. Therefore, finding ways to improve how CDCR programs are operated on a day to day basis could significantly improve their effectiveness and reduce long-term costs without requiring much up-front investment. This could be achieved through

implementation of improved policies and practices, as well as use of outcome and fidelity assessments of programs such as are done in many other states.

Selected Options for Improving Prison Operations and Outcomes

(Dollars in millions; prison population and savings figures estimated for 2010-11)

Option	Prison Pop. Impact	State Savings	Key Tradeoffs
Governor's SCAAP increase assumption	0	\$880	<ul style="list-style-type: none"> • No impact to public safety • Ability to implement unclear
Governor's inmate health care proposals (net savings)	0	\$279	<ul style="list-style-type: none"> • Large state savings • No direct impact to public safety • Implementation details still needed
Governor's proposal to eliminate rehabilitation programs - trigger	0	\$172	<ul style="list-style-type: none"> • Significant state savings in short-term, eroded over longer term • Harmful to public safety
Alternative custody	-6,300	\$121	<ul style="list-style-type: none"> • Significant state savings • Moderate impact to public safety mitigated by risk assessment and intensive supervision
Reduce CDCR headquarters costs 10 percent	0	\$40	<ul style="list-style-type: none"> • Modest state savings • No impact to public savings • Could affect department management and operations
Expand community-based female and furlough programs	-1000	\$0	<ul style="list-style-type: none"> • Moderate state savings offset by costs to implement in near term • Reduce overcrowding • Potential improvement to public safety
Improve effectiveness of existing programs	-100	\$0	<ul style="list-style-type: none"> • Minimal short-term savings • Improvement to public safety

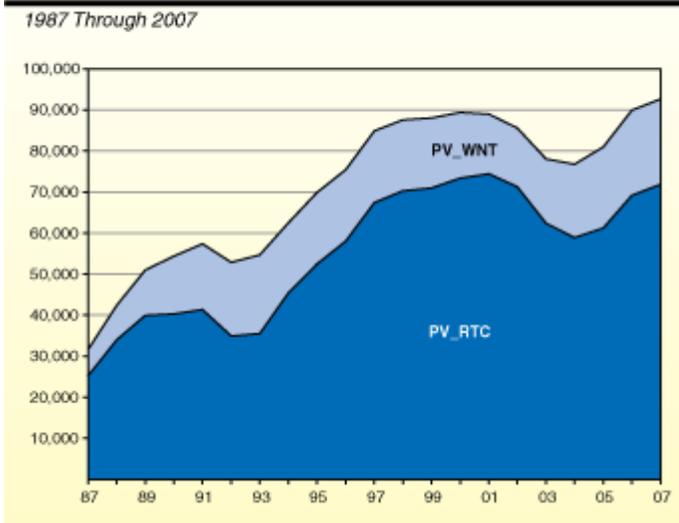
Options for Improving Parole and Reentry and Reducing Recidivism

Overview of Parole System. Under state law, all inmates released from prison must serve a term on parole and are subject to return to prison through the state’s administrative revocation process, as well as through conviction for a new crime. Under recent statutory changes, certain parolees – those found to be the lowest risk to reoffend based on their criminal history, a formal risk assessment, and consideration of other factors such as gang membership – are placed on banked caseloads and not subject to administrative revocation. Parolees are generally required to parole to the county in which they were prosecuted. Generally, the distribution of parolees across counties mirrors the distribution of the general population, though research has found that parolees tend to be more highly concentrated in some neighborhoods than others. The table below shows the distribution of the parole population across counties.

Three-Fourths of Parole Population Resides in Ten Counties		
2006		
County	Parolees	Percent
Los Angeles	35,376	30%
San Bernardino	8,815	8
San Diego	7,626	7
Orange	7,229	6
Riverside	7,193	6
Santa Clara	5,344	5
Fresno	4,743	4
Kern	4,106	4
Sacramento	3,603	3
Alameda	3,309	3
All other counties	29,453	25
Total California	116,797	100%
Detail may not total due to rounding.		

Most parole violators (PVs) are returned to custody (PV-RTC) for violations of the conditions of their parole through the state’s administrative return process, while others are convicted in courts for new crimes with new terms (PV-WNT). The total number of parole violations resulting in being returned to state prison increased three-fold from 1987 to 2007. The number of returns largely reflects the increase in the state prison and parole populations over that same period.

Growth in Number of Parole Returns to Prison



Governor's Budget Options. The Governor's budget includes two trigger proposals that would increase parole caseloads. The first of these proposed changes is to increase the general parolee caseload from 45 parolees per parole agent to 70 parolees per parole agent. This proposal would reverse a change implemented by the Legislature in the current year budget. The second change would be to increase the number of parolees who are on "banked" caseloads. Currently, only those parolees who are assessed as not being high risk to reoffend and who do not have prior serious or violent convictions are placed on banked caseloads. The Governor's proposal would add to the rolls of banked caseloads those parolees who have serious or violent offenses on their record but are assessed as low risk to reoffend. Combined, these two proposals are estimated to save the state \$79 million.

The Governor's budget includes an April Finance Letter to pilot a parolee reentry court diversion program in San Diego County. This program is modeled after drug courts and would be designed to provide additional court supervision and substance abuse or mental health treatment services to 100 parolees who would otherwise be returned to state prison by the courts. This program is estimated to result in net savings of \$483,000.

What Research Tells Us. The 2007 Little Hoover Report (*Solving California's Corrections Crisis*) cited that on any given day, 6 out of 10 admissions to California prisons are returning parolees. California's parole system is unlike any other in the nation. According to the report, at 70 percent, California's recidivism rate is one of the highest in the nation. The report noted that California is one of just two states that places every felony offender on parole and the only state where parole can last three years – in some cases longer than the actual prison term served.

The Commission found at the time that by using its limited resources to supervise all parolees, the system hinders the State's ability to closely supervise the most dangerous parolees and results in the return to prison of many low-level "technical" parole violators. By placing all offenders on parole and setting numerous conditions, the State has greatly increased the chances that many will violate parole. In 2005, 62,000 parolees were returned

to prison for parole violations and served, on average, a four-month prison term. Staff notes the last year Legislation was passed that created "non-revocable parole," which prevents certain low-level offenders from being returned to prison on violations of parole.

In this report, the Little Hoover Commission also recommended that the State should reallocate resources to assist communities in expanding community-based punishment options for offenders who violate the terms of post-release supervision. The report suggested that working with communities, the State should reallocate resources to establish a continuum of alternatives to prison, including electronic monitoring, day reporting centers, drug treatment, jail time and other community based sanctions.

Research shows that parolees must overcome significant barriers on their way to successfully completing parole. These barriers include: 1) High unemployment rates of between 70-80 percent after imprisonment, 2) High substance abuse rates of up to 85 percent, and 3) High illiteracy rates of about 50 percent.

One-in-ten parolees is homeless immediately upon parole, and between 60 and 90 percent of parolees lack the "survival skills" needed to succeed on parole after leaving prison. These include the ability to control anger, conduct business (such as exchanging money or balancing a checkbook), find a job, and follow directions.

The post-release employment experience of a parolee is frequently an important determinant of whether the individual will successfully complete parole. Research demonstrates a positive relationship between labor market conditions and crime rates, and evaluations of parolee employment programs show significant associations between program participation, employment, and reduced recidivism.

Additionally, substance abuse is an important factor that contributes to parole failure. 85 percent of all parolees have a history of chronic drug use, and frequently this leads to relapse and parole revocation. According to CDCR research, the percentage of parolees committing new criminal acts drops 72 percent after successful completion of substance abuse treatment. Proposition 36, enacted by California voters in 2000 (*The Substance Abuse and Crime Prevention Act of 2000*), changed state law so that certain adult parolees who use or possess illegal drugs may receive drug treatment and supervision in the community, rather than being sent back to state prison. Staff notes that the Governor's 2010 budget does not contain Proposition 36 funding.

Each of the four CDCR parole regions has a Substance Abuse Services Coordinating Agency (SASCA) that serves as an intermediary contractor to the local drug treatment provider community. The CDCR funds the SASCA's that in turn subcontract with local service providers. Staff notes that most of these contracts were cancelled and renegotiated due to the programming cuts included in the 2009 Budget Act.

What other states are doing.

- **Texas** - Graduated sanctions such as curfews and increased reporting have been enhanced, ensuring a swift but commensurate response to each rule violation. Parolees who repeatedly violate the rules or commit a misdemeanor are often sent to an Intermediate Sanctions Facility for approximately 90 days, in lieu of being revoked to prison. Some parolees at these facilities receive

drug treatment along with follow-up counseling upon release. Literacy, GED and workforce preparation programming are available at some facilities.

- **Georgia and Delaware** – Both of these states have changed the law so probation officers can impose sanctions such as a curfew and increased reporting in response to violations. A Georgia study found reductions of 70 percent or more in the average number of days that violators spent in local jails awaiting disposition of their violation cases.
- **Florida** - A 2010 report by Florida's Office of Program Policy Analysis (*Intermediate Sanctions for non-violent Offenders Could Produce Savings*) found that community-based substance abuse treatment has lower costs than incarceration and reduces recidivism. The report found that Florida could save over \$607,000 for every 100 offenders diverted to six-month residential treatment in lieu of prison during the first year of supervision. As treating the substance abuse issues lowers the likelihood of recidivism, such programs can also reduce future correctional costs.

Alternative Options. An option that has been discussed in California in the past is parole realignment. Under this option, inmates being released from state prison would be supervised by county probation departments rather than by CDCR's parole division. The argument for this approach is that consolidation of supervision could provide better efficiencies through economies of scale, and would promote local governments taking a greater stake in the outcomes of parolees. Such an option would be a major shift of responsibility from the state to local governments, though most proposals assume additional funding would be provided to local governments from some source. For example, if the state were to provide half of the roughly \$900 million budgeted for parole in 2010-11 to the counties, it could save \$450 million. If alternative revenue sources were identified for the counties, it might be possible to offer them additional funding to enhance supervision and programs for these parolees.

Another approach is to focus on reducing the number of parolees who return to state prison for "technical" violations. The Legislature has already made some efforts in this direction by requiring the department to utilize a Parole Violations Decision Making Instrument (PVDMI), a impartial tool designed for parole agents and administrators to determine whether a parolee should be returned to prison or provided an alternative sanction based on the nature of the violation and the offenders criminal background. A further option would be to ban returns to state prison for technical violations altogether, potentially saving as much as \$263 million annually. About 81 percent of administrative revocations in 2007 were for non-felony offenses (technical violations or misdemeanors).

Various stakeholders have expressed the view that SB 678 (described in more detail earlier in agenda) was an innovative approach to enhance public safety and reduce corrections costs. One option that might be worth considering is whether a similar approach could work for parole. This approach would mean providing a share of prison savings achieved through effectively reducing recidivism with parole and requiring parole to use that additional funding to implement more evidence-based practices. Such an approach could be much more cost-effective and actually improve public safety by incentivizing the reduction of recidivism by parolees. In some ways, this approach could be much more challenging than for probation

offenders because the state's prison and parole divisions are part of the same department. So, it is not clear that the fiscal incentives would work the same as people believe it will under SB 678.

Yet another approach would be to expand the availability of alternative sanctions. The research finds that use of alternative sanctions is a cost-effective correctional approach. The key, however, is to have a continuum of sanctions available, as well as clear rules about how and when sanctions will be applied, so that even less severe violations receive an appropriate sanction in a timely and consistent manner. Unfortunately, the availability of alternative sanctions is limited, as well as weighted to more intensive options, such as electronic monitoring and residential placement facilities. Frequently, this means that minor violations are allowed to occur because parole agents have few other appropriate options until the number or severity of violations increase to the point where parole agents view revocation as the most appropriate option. While the Legislature required the use of the PVDMI, it did not provide additional funding for alternative sanction programs. Doing so could result in better outcomes and state savings. In fact, one approach would be to combine the option to ban technical revocations and use a share of the savings to invest in alternative sanction programs. Such an approach could provide a much more cost-effective way to address technical violations.

Selected Options for Improving Parole and Reentry

(Dollars in millions; prison population and savings figures estimated for 2010-11)

Option	Prison Pop. Impact	State Savings	Key Tradeoffs
Governor's parole caseload increase proposals - trigger	0	\$79	<ul style="list-style-type: none"> • Moderate state savings • Moderate impact to public safety
Governor's parolee reentry court proposal	100	\$0.5	<ul style="list-style-type: none"> • Small state savings • Improve public safety •
Realign parole to county probation	0	\$450	<ul style="list-style-type: none"> • Large state savings • Limited impact to public safety • Significant shift to local governments • Challenging to implement
Prohibit technical revocations	-6,300	\$132	<ul style="list-style-type: none"> • Significant state savings • Modest impact to public safety • Easy to implement
"SB 678" for parole	-900	\$15	<ul style="list-style-type: none"> • Modest state savings • Implementation costs • Benefits to public safety
Expand alternative sanction programs	-900	\$10	<ul style="list-style-type: none"> • Modest state savings • Implementation costs • Modest impact to public safety

The Fiscal Analysis

Spending on Criminal Justice Statewide. As shown in the table below, the state spent roughly \$32 billion in 2006-07 on criminal justice activities, according to data collected by the Attorney General's office. This was nearly double what was spent ten years earlier. About 63 percent of these expenditures are for local government activities, including police, sheriffs, jails, and probation. The fastest growing expenditure area was for state prisons and parole.

California Expenditures on Criminal Justice

(Dollars in billions)

	1996/97	2006/07	Percent Change
Police and sheriffs	\$7.0	\$13.5	94%
Prisons and parole	\$4.1	\$9.2	126%
Courts and judiciary	\$3.1	\$3.4	9%
Jails and Probation	\$2.3	\$4.7	107%
Other criminal justice	\$0.8	\$1.7	110%
Totals	\$17.2	\$32.4	88%

Share of General Fund Spent on CDCR Doubled in Twenty Years. In its 2009 analysis, the LAO found that General Fund spending on corrections increased by an average annual rate of 9 percent between 1987-88 and 2007-08. By comparison, total General Fund spending statewide grew at a slower average annual rate of 6 percent. As a consequence, spending on corrections now takes up about twice as much of the state budget than it did 20 years ago, increasing from 5 percent to 10 percent of total General Fund spending. The Governor's proposed budget for 2010-11 includes \$8.8 billion for CDCR.

Corrections Spending Increases Driven by Prison Population and Other Factors. The growth in corrections expenditures is in effect a result of (1) having substantially more inmates and parolees in the state correctional system and (2) the increased costs to incarcerate and supervise those offenders. As shown in the figure below, the average cost to incarcerate an inmate has more than doubled over the past 20 years from about \$20,000 in 1987-88 to about \$46,000 in 2007-08, an average annual increase of about 4 percent. One of the main reasons for this is the growth in inmate health care costs, which have increased by over \$1.5 billion since 2000 and have been largely due to the outcome of litigation in federal court over inmate health care. Increases in security-related expenses (primarily for correctional officer salaries and benefits) and other incarceration expenses (such as for transportation, reception and diagnosis, education programs, and administration) have also driven up the average incarceration cost.

Substantial Increase in Average Inmate and Parolee Costs

(Dollars in Millions)

	Average Costs		Average Annual Change
	1987-88	2007-08	
Inmates	\$19,531	\$46,068	+4%
Security	\$10,208	\$20,676	+4%
Health care	\$2,005	\$11,956	+9%
Other operations	\$7,318	\$13,435	+3%
Parolees	\$3,690	\$6,308	+3%

California Faces Large Budget Shortfalls. At the release of the Governor's budget in January, the administration identified a total budget gap of \$19 billion between the current year and budget year. While the Legislature took steps in February to address a portion of that identified shortfall, the majority of that gap remains to be filled in the 2010-11 budget. Moreover, the budget gap is structural and not one-time in nature. In November (before release of the Governor's proposed budget), the Legislative Analyst's Office estimated ongoing budget shortfalls of about \$20 billion annually based on its projections of state revenues and expenditures.

What California Can Learn from the Research and Experiences of Other States. As discussed in the sections above, national research on correctional programs identifies numerous programs and strategies that are effective at reducing crime and recidivism, as well as identifying which strategies are generally ineffective. The table below, reproduced from the Washington State Institute for Public Policy report *Evidence-Based Public Policy Options to Reduce Prison Construction, Criminal Justice Costs, and Crime Rates* (2006), provides a summary of the findings from research studies from around the country. Of particular note, the table identifies not only the estimated impacts of these programs on crime, but also includes a cost-benefit analysis that compares the estimated savings produced by an effective program and the costs to implement that program. As shown, various types of programs are shown to result in net savings as high as \$13,700 for adult programs and strategies and even higher for juvenile and prevention programs.

Reducing Crime With Evidence-Based Options: What Works, and Benefits & Costs

Washington State Institute for Public Policy Estimates as of October, 2006	Effect on Crime		Benefits and Costs			
	Outcomes		(Per Participant, Net Present Value, 2006 Dollars)			
	Percent change in crime outcomes, & the number of evidence-based studies on which the estimate is based (in parentheses)		Benefits to Crime Victims (of the reduction in crime)	Benefits to Taxpayers (of the reduction in crime)	Costs (marginal program cost, compared to the cost of alternative)	Benefits (total) Minus Costs (per participant)
Notes: "n/e" means not estimated at this time. Prevention program costs are partial program costs, pro-rated to match crime outcomes.	(1)	(2)	(3)	(4)	(5)	
Programs for People in the Adult Offender System						
Vocational education in prison	-9.0% (4)	\$8,114	\$8,808	\$1,182	\$13,738	
Intensive supervision: treatment-oriented programs	-16.7% (11)	\$9,318	\$9,389	\$7,124	\$11,563	
General education in prison (basic education or post-secondary)	-7.0% (17)	\$6,325	\$5,306	\$982	\$10,669	
Cognitive-behavioral therapy in prison or community	-6.3% (25)	\$5,658	\$4,746	\$105	\$10,299	
Drug treatment in community	-9.3% (8)	\$5,133	\$5,495	\$574	\$10,054	
Correctional industries in prison	-5.9% (4)	\$5,360	\$4,496	\$417	\$9,439	
Drug treatment in prison (therapeutic communities or outpatient)	-5.7% (20)	\$5,133	\$4,306	\$1,804	\$7,835	
Adult drug courts	-8.0% (57)	\$4,395	\$4,705	\$4,333	\$4,767	
Employment and job training in the community	-4.3% (18)	\$2,373	\$2,386	\$400	\$4,359	
Electronic monitoring to offset jail time	0% (9)	\$0	\$0	-\$870	\$870	
Sex offender treatment in prison with aftercare	-7.0% (8)	\$6,442	\$2,885	\$12,585	-\$3,258	
Intensive supervision: surveillance-oriented programs	0% (23)	\$0	\$0	\$3,747	-\$3,747	
Washington's Dangerously Mentally Ill Offender program	-20.0% (1)	\$18,020	\$15,116	n/e	n/e	
Drug treatment in jail	-4.5% (9)	\$2,481	\$2,656	n/e	n/e	
Adult boot camps	0% (22)	\$0	\$0	n/e	n/e	
Domestic violence education/cognitive-behavioral treatment	0% (9)	\$0	\$0	n/e	n/e	
Jail diversion for mentally ill offenders	0% (11)	\$0	\$0	n/e	n/e	
Life Skills education programs for adults	0% (4)	\$0	\$0	n/e	n/e	
Programs for Youth in the Juvenile Offender System						
Multidimensional Treatment Foster Care (v. regular group care)	-22.0% (3)	\$51,828	\$32,915	\$6,945	\$77,798	
Adolescent Diversion Project (for lower risk offenders)	-19.6% (6)	\$24,328	\$18,208	\$1,913	\$40,623	
Family Integrated Transitions	-13.0% (1)	\$30,708	\$19,502	\$9,665	\$40,545	
Functional Family Therapy on probation	-15.9% (7)	\$19,529	\$14,617	\$2,325	\$31,821	
Multisystemic Therapy	-10.5% (10)	\$12,855	\$9,622	\$4,264	\$18,213	
Aggression Replacement Training	-7.3% (4)	\$8,897	\$6,659	\$897	\$14,660	
Teen courts	-11.1% (5)	\$5,907	\$4,238	\$936	\$9,208	
Juvenile boot camp to offset institution time	0% (14)	\$0	\$0	-\$8,077	\$8,077	
Juvenile sex offender treatment	-10.2% (5)	\$32,515	\$8,377	\$33,064	\$7,829	
Restorative justice for low-risk offenders	-8.7% (21)	\$4,628	\$3,320	\$880	\$7,067	
Interagency coordination programs	-2.5% (15)	\$3,084	\$2,308	\$205	\$5,186	
Juvenile drug courts	-3.5% (15)	\$4,232	\$3,167	\$2,777	\$4,622	
Regular surveillance-oriented parole (v. no parole supervision)	0% (2)	\$0	\$0	\$1,201	-\$1,201	
Juvenile intensive probation supervision programs	0% (3)	\$0	\$0	\$1,598	-\$1,598	
Juvenile wilderness challenge	0% (9)	\$0	\$0	\$3,085	-\$3,085	
Juvenile intensive parole supervision	0% (10)	\$0	\$0	\$6,460	-\$6,460	
Scared Straight	+8.8% (10)	-\$8,355	-\$8,253	\$68	-\$14,667	
Counseling/psychotherapy for juvenile offenders	-18.9% (6)	\$23,126	\$17,309	n/e	n/e	
Juvenile education programs	-17.5% (3)	\$41,181	\$26,153	n/e	n/e	
Other family-based therapy programs	-12.2% (12)	\$15,006	\$11,231	n/e	n/e	
Team Child	-10.9% (2)	\$5,759	\$4,131	n/e	n/e	
Juvenile behavior modification	-8.2% (4)	\$19,271	\$12,238	n/e	n/e	
Life skills education programs for juvenile offenders	-2.7% (3)	\$6,441	\$4,091	n/e	n/e	
Diversion progs. with services (v. regular juvenile court)	-2.7% (20)	\$1,441	\$1,034	n/e	n/e	
Juvenile cognitive-behavioral treatment	-2.5% (8)	\$3,123	\$2,337	n/e	n/e	
Court supervision vs. simple release without services	0% (8)	\$0	\$0	n/e	n/e	
Diversion programs with services (v. simple release)	0% (7)	\$0	\$0	n/e	n/e	
Juvenile intensive probation (as alternative to incarceration)	0% (5)	\$0	\$0	n/e	n/e	
Guided Group Interaction	0% (4)	\$0	\$0	n/e	n/e	
Prevention Programs (crime reduction effects only)						
Nurse Family Partnership-Mothers	-56.2% (1)	\$11,531	\$8,161	\$5,409	\$14,283	
Nurse Family Partnership-Children	-16.4% (1)	\$8,632	\$4,922	\$733	\$12,822	
Pre-K education for low income 3 & 4 year olds	-14.2% (8)	\$8,145	\$4,644	\$593	\$12,196	
Seattle Social Development Project	-18.6% (1)	\$1,605	\$4,341	n/e	n/e	
High school graduation	-10.4% (1)	\$1,738	\$2,851	n/e	n/e	
Guiding Good Choices	-9.1% (1)	\$570	\$2,062	n/e	n/e	
Parent-Child Interaction Therapy	-3.7% (1)	\$268	\$784	n/e	n/e	
Program types in need of additional research & development before we can conclude they do or do not reduce crime outcomes:						
Programs needing more research for people in the adult offender system		Comment				
Case management in the community for drug offenders	0% (13)	Findings are mixed for this broad grouping of programs.				
COSA (Faith-based supervision of sex offenders)	-22.3% (1)	Too few evaluations to date.				
Day fines (compared to standard probation)	0% (1)	Too few evaluations to date.				
Domestic violence courts	0% (2)	Too few evaluations to date.				
Faith-based programs	0% (5)	Too few evaluations to date.				
Intensive supervision of sex offenders in the community	0% (4)	Findings are mixed for this broad grouping of programs.				
Medical treatment of sex offenders	-21.4% (1)	Too few evaluations to date.				
Mixed treatment of sex offenders in the community	0% (2)	Too few evaluations to date.				
Regular parole supervision vs. no parole supervision	0% (1)	Too few evaluations to date.				
Restorative justice programs for lower risk adult offenders	0% (6)	Findings are mixed for this broad grouping of programs.				
Therapeutic community programs for mentally ill offenders	-20.8% (2)	Too few evaluations to date.				
Work release programs (from prison)	-4.3% (4)	Too few recent evaluations.				
Programs needing more research for youth in the juvenile offender system						
Dialectical Behavior Therapy	0% (1)	Too few evaluations to date.				
Increased drug testing (on parole) vs. minimal drug testing	0% (1)	Too few evaluations to date.				
Juvenile curfews	0% (1)	Too few evaluations to date.				
Juvenile day reporting	0% (2)	Too few evaluations to date.				
Juvenile jobs programs	0% (3)	Too few recent evaluations.				
Juvenile therapeutic communities	0% (1)	Too few evaluations to date.				
Mentoring in juvenile justice	0% (1)	Too few evaluations to date.				

More generally, there are several widely accepted criteria for operating effective correctional programs. These criteria are described here.

- **Program Model.** Programs should be modeled on widely accepted principles of effective treatment and, ideally, research demonstrating that the approach is effective at achieving specific goals. Additionally, it is important that programs be evaluated to ensure that program continue to operate in accordance with that program design after implementation.
- **Risk Principle.** Treatment should be targeted towards inmates identified as most likely to reoffend based on their risk factors—for example, those inmates who display high levels of antisocial or criminal thinking, low literacy rates, or severe mental illness. Focusing treatment resources on these inmates will achieve greater net benefits compared to inmates who are low-risk to reoffend even in the absence of treatment programs, thereby generating greater “bang for the buck.”
- **Needs Principle.** Programs should be specifically designed to address those offender needs which are directly linked to their criminal behavior, such as antisocial attitudes, substance abuse, and illiteracy. Programs that attempt to address multiple areas of need tend to be more effective at reducing recidivism rates than those programs that target only one area of need.
- **Responsivity Principle.** Treatment approaches should be matched to the characteristics of the target population. For example, research has shown that male and female inmates respond differently to some types of treatment programs. Important characteristics to consider include gender, motivation to change, and learning styles.
- **Dosage.** The amount of intervention should be sufficient to achieve the intended goals of the program, considering the duration, frequency, and intensity of treatment services. Generally, higher-dosage programs are more effective than low-dosage interventions.
- **Trained Staff.** Staff should have proper qualifications, experience, and training to provide the treatment services effectively.
- **Positive Reinforcement.** Behavioral research has found that the use of positive reinforcements—such as increased privileges and verbal encouragement—can significantly increase the effectiveness of treatment, particularly when provided at a higher ratio than negative reinforcements or punishments.
- **Post-Treatment Services.** Some services should continue after completion of intervention to reduce the likelihood of relapse and reoffending. Continuing services is particularly important for inmates transitioning to parole.
- **Evaluation.** Program outcomes and staff performance should be regularly evaluated to ensure the effectiveness of the intervention and identify areas for improvement.

Final Comments. Numerous reports have reported that California’s criminal justice and state corrections systems are operating less effectively than they could be. Often this means that public safety is not as well protected as it could be. It also means that state and local resources could be used in more cost-effective ways, potentially achieving greater “bang for the buck” – greater public safety for dollars currently invested.

While national research shows that various programs and strategies work, are cost-effective, and could be implemented in California, the state's fiscal shortfalls make it difficult to justify new expenditures, even on effective criminal justice programs. Additional expenditures on corrections and criminal justice necessarily mean fewer dollars spent on other state programs and priorities, including schools, universities, roads, parks, and health services. And, while many programs that are cost-effective in the longer-term, many require up front investments and costs to implement. However, while the state budget condition may not allow for additional *net* costs in the short-term (even if programs have a longer-term fiscal benefit), that does not mean that nothing can be done or implemented. Instead, today's fiscal constraints suggest that lawmakers and criminal justice agencies need to be more creative in finding ways to address problems and implement smarter approaches. This can be done in three ways.

- ***Use existing resources more efficiently.*** Agencies should seek to identify which of their current efforts are effective and which are not. When agencies determine that they are operating programs ineffectively, they should either fix the deficiencies in the program or move the funding to a more effective approach. While simple in concept, this requires quality evaluation of programs, operations, and outcomes.
- ***Find offsetting savings.*** Policymakers and agency administrators can also seek to find and “score” offsetting savings associated with new or improved programs and strategies. The CDCR's proposal to implement a pilot reentry court program is a good example of this. The department proposes to fund the reentry court pilot with the projected prison savings associated with the program. The key challenge with this approach is estimating realistic savings levels that can be achieved in the near term when implementing new programs.
- ***Find alternative revenue sources.*** To the extent that more effective programs or strategies require short-term or ongoing costs, lawmakers and administrators can also seek to find new ways to pay for the programs besides state or local General Funds. One example of this was the Legislature's use of federal Byrne/JAG stimulus dollars to fund SB 678, reentry courts, and local substance abuse treatment programs. Unfortunately, this was one-time funding. However, just as current expenditures should be examined for whether they are being used as efficiently as the could be, so should decisions about how non-General Fund revenues are used be evaluated to ensure that they are being spent on the most effective approaches to improve public safety. To the degree that these funding sources are used to support less effective efforts, decision-makers could instead direct their use to more effective programs and strategies.

Panelists

Dianne Boudreaux is a Parole Agent I working out of the Inglewood Complex in Parole Region III. She is currently carrying a regular caseload, including mentally ill and high control cases. In the past, she has been a Second Striker Agent and prior to sex offenders going on GPS, had sex offenders on her regular caseload. Ms Boudreaux started her state employment with the California Youth Authority in 1995 as a teacher at Stark Correctional Facility in Chino. In 2000, she went to the Academy in Stockton and became a Youth Correctional Counselor. She worked on General Population Units and on the Sex Offender Unit. In 2002 she went to the Parole Agent Academy in Galt.

Dr. Carolyn Eggleston is currently the Director of the Center for the Study of Correctional Education at California State University, San Bernardino and a Professor of Special Education. She has spent her career in correctional education and community reentry, as both a practitioner and researcher. Dr. Eggleston spent almost 20 years working in corrections as a diagnostician, teacher, school principal, and supervisor. Her doctoral dissertation reviewed the first special education program in an adult reformatory, Elmira, during the late 19th century. She has written about special needs juveniles and adults, historical issues in corrections, history of the female prisoner, and education and reentry issues for inmates. Dr. Eggleston has served the International Correctional Education Association in many capacities, including, Editor and Publisher of the Journal of Correctional Education, Vice President, and President. She is a member of the European Prison Education Association.

Cindy Greer is an academic teacher at Valley State Prison for Women in Chowchilla, CA. For the past three years she has taught the Adult High School program. She has taught for CDCR for over 15 years and her assignments have included all levels of academic programs from 0 - 12.9 reading level and a vocational placement class. Besides teaching, she is an active member/activist with SEIU Local 1000.

Barry Krisberg, Ph.D. is a Distinguished Senior Fellow and Lecturer in Residence at the University of California Berkeley School of Law. Prior to joining Berkeley Law, he was the President of the National Council on Crime and Delinquency from 1983 to 2009. He is known nationally for his research and expertise on justice issues and is called upon as a resource for professionals, foundations, and the media. Dr. Krisberg has held several educational posts. He was a faculty member in the School of Criminology at the University of California at Berkeley. He was also an adjunct professor with the Hubert Humphrey Institute of Public Affairs at the University of Minnesota and the Department of Psychiatry at the University of Hawaii. He is also a Visiting Scholar at the John Jay College of Criminal Justice. Dr. Krisberg was appointed by the legislature to serve on the California Blue Ribbon Commission on Inmate Population Management. He is past president and fellow of the Western Society of Criminology and was the Chair of the California Attorney General's Research Advisory Committee. He also served on a CDCR Expert Panel on Reducing Offender Recidivism. Dr. Krisberg was appointed by the California Attorney General to lead a panel of experts to investigate the conditions in the California youth prisons. He has been named in a consent decree to help develop remedial plans and to monitor many of the mandated reforms in the California Division of Juvenile Justice.

Pastor Raymond E. Lankford is the Executive Director and co-founder of Healthy Oakland, a free-to-low cost clinic, the Save A Life Wellness Center, which has become the First African-American Faith Based State Licensed Community Clinic in the State of California; a Family Resource Center, Public Health Institute, Non-violence Institute, the Healthy Oakland "Ex-Offender Program, and all male programs were integrated under the Urban Male Health Center in 2005 in West Oakland. A non-profit, parent organization, Healthy Communities, Inc., was started in 2003. The cities that are providing programming underneath the parent organization are: Healthy Oakland, Healthy San Francisco, Healthy Berkeley, Healthy Silicon Valley, Healthy Richmond, Healthy Vallejo, Healthy Stockton and Healthy Philadelphia in Pennsylvania. Pastor Lankford has received numerous awards, including KQED-TV's (PBS affiliate in San Francisco) Black History Local Hero, the "Martin Luther King, Jr.'s Community Service Award", the City of Oakland Humanitarian Award, as well as being recognized as a Person Who Has Helped Oakland Youth at the Mayor's Peace Conference for Youth Violence Prevention. He is an adjunct professor at University of California-Davis' extension program to provide faith-based consultation services with family focus practice in foster care and child welfare services. He is the former co-chair of the Bay Area Action Council Network for Re-Entry through Regional Congregations and Neighborhood Organizations (RCNO) and also chairs the Beat 6 Faith-Based Coalition Against Violence for West Oakland.

Maurice Lee is the Senior Vice President for the Western Region for WestCare California. This region encompasses California, Nevada, Arizona, and Guam. He has over twenty years experience providing substance abuse treatment services, which includes fourteen years as an administrator in substance abuse treatment programs within the criminal justice system. During his tenure with WestCare he has provided oversight for all of the California operations to include the case management of the Region I SASCA aftercare service. He has additionally directed teams of qualified substance abuse counselors in the implementation, and development of quality in-prison therapeutic community programs in Texas and California (Solano, Jamestown, Avenal, Pleasant Valley, Baseline Camp). He has worked equally with community-based treatment programs including federally funded SAMHSA and ACYF programs and programs serving the transitioning criminal justice population. This experience includes supervision of over 600 employees, hiring and evaluation of staff, developing and monitoring program budgets, assurance of program compliance with contract requirements, clinical supervision and review of participant files, program evaluation, capacity building and assurance of compliance with agency policies and procedures. Mr. Lee is a Licensed Chemical Dependency Counselor Level III. He is Level I FACT Certified and holds numerous other chemical dependency licenses and certifications, including certification on an international reciprocity level through ICRC.

Jerry Powers has been the Chief Probation Officer for Stanislaus County since 2002. During that time he has been active at the state level in advocating for probation and corrections reform. He has provided expertise to the legislature and policy makers on criminal justice system improvement, as well as to the State and Federal Courts. He has served two terms as the President of the Chief Probation Officers of California and currently serves as the legislative chair for the association. In 2007, he was recognized by his peers as the Chief Probation Officer of the Year. He was appointed by Governor Schwarzenegger to both the California Sex Offender Management Board and the California Council on Criminal Justice where he currently serves as the Vice Chair. After graduating from high school he attended college at the University of California at San

Diego where he received his degree in Psychology. Prior to graduating Jerry began his career in the Probation field with the San Diego County Probation Department. He has spent 26 years in the probation field. He spent his first 16 years in San Diego County and held a variety of assignments ranging from adult and juvenile institutions to school based assignments and community supervision.

Jan Scully is the District Attorney in Sacramento County. She was first elected District Attorney in November 1994. In this capacity, she has focused on the rights of victims. She established an office policy requiring notice to victims before a felony case is resolved. She has also served as the chair of the California District Attorney Association's Victim Rights Committee. She has also been very interested in getting citizens involved in the criminal justice system. In 1995, she established a Citizens Cabinet, a group of community leaders who advised Jan on matters of policies and programs. In 2001, she established the District Attorney Multi-Cultural Community Council, with community leaders from the area's diverse ethnic, racial, and cultural communities, to help bridge the gap between their communities and the criminal justice system. In 2002, she started the Citizens Academy, a 10-week program for community members who wish to learn more about the District Attorney's Office and the criminal justice system. In 2005 District Attorney Scully was the first woman elected to serve as President of the California District Attorneys Association and in 2006 was President of the Institute for the Advancement of Criminal Justice. She chairs the California Council of Criminal Justice, Sacramento County Domestic Violence Coordinating Council, and serves on a number of other criminal justice, public safety and community advisory boards. She is a Vice President of the National District Attorneys Association and has served as a board member since 2005.

Susan Turner is a Professor in the Department of Criminology, Law and Society at the University of California, Irvine. She also serves as Director of the Center for Evidence-Based Corrections, and is an appointee of the President of the University of California to the California Rehabilitation Oversight Board (C-ROB). She received her M.A. and Ph.D. in Social Psychology from the University of North Carolina, Chapel Hill. She led a variety of research projects while she was a Senior Behavioral Scientist at RAND, including studies on racial disparity, field experiments of private sector alternatives for serious juvenile offenders, work release, day fines and a 14-site evaluation of intensive supervision probation. Dr. Turner's areas of expertise include the design and implementation of randomized field experiments and research collaborations with state and local justice agencies. At UCI, she is currently assisting the California Department of Corrections in the development and testing of a risk assessment tool as well as an evaluation of a parole violation decision making instrument designed to provide an orderly decision making process for response to violations of parole. Dr. Turner is a member of the American Society of Criminology, the American Probation and Parole Association, a Fellow of the Academy of Experimental Criminology, and past Chair of the Division of Corrections and Sentencing, American Society of Criminology.

Judge Roger K. Warren (Ret.) serves as Scholar-in-Residence with the California Administrative Office of the Courts (AOC), where he oversees the AOC's community corrections activities. He is President Emeritus of the National Center for State Courts (NCSC) where he served as President from 1996 until 2004. He currently serves as Director of the NCSC's national sentencing reform project and as principal consultant to the NCSC partnership with Pew Charitable Trusts' Public Safety Performance Project. He is also Chair of the Board of Directors of Justice at Stake, Inc. Judge Warren is the

author of several works on evidence-based sentencing, including *Evidence-Based Sentencing: the Application of Principles of Evidence-Based Practice to State Sentencing Practice and Policy*. He is the principal author of the NCSC model judicial education curriculum on evidence-based sentencing and has conducted evidence-based practice training programs for judges and other criminal justice professionals in 20 states and various associations. Previously, Judge Warren served on the trial courts in Sacramento, California for twenty years, serving as the Presiding Judge of the Superior Court in 1991 and 1992. He created Sacramento's pre-trial release program, and was the Founder and First Chair of the Sacramento Probation Oversight Committee, the Sacramento Intermediate Punishments Committee, and the Sacramento Criminal Justice Cabinet. He also served on the National Advisory Board to the National Institute of Corrections Project on the Use of Intermediate Sanctions. He is the recipient of numerous awards including from the American Judges Association, National Judicial College, Justice Management Institute, National Conference of Court Public Information Officers, and National Association of State Judicial Educators. During his tenure with the California courts, Judge Warren received the California Jurist of the Year award in 1995, and Sacramento Judge of the Year awards in the years 1987, 1993 and 1994. He graduated from Williams College and following a Fulbright Fellowship to Iran received a MA Degree in Political Science and JD degree from the University of Chicago where he served as an editor of the University of Chicago Law Review.

Jeanne Woodford has extensive experience in Corrections and Rehabilitation. Ms. Woodford began her career at San Quentin State Prison in 1978 following graduation from Sonoma State University with a Bachelors degree in Criminal Justice. Ms. Woodford promoted through the ranks and was appointed Warden of San Quentin State Prison by Governor Davis in 1999. She remained Warden of San Quentin until called upon by Governor Schwarzenegger in 2004 to serve as the Director of the California Department of Corrections. Her mission was to bring reform and rehabilitation to the California Department of Corrections. She was appointed to the position of Undersecretary of the California Department of Corrections and Rehabilitation, the largest correctional system in the United States in July of 2005. Jeanne Woodford retired as the Chief of the San Francisco Adult Probation Department on May 30, 2008 completing 30 years of work at the state and county level of government in the field of criminal justice.

Options to Improve Community Corrections and Reduce Prison Admissions
(Dollars in Millions)

Attachment B

Savings Options	<u>2010-11</u>				<u>Full Implementation</u>			
	Prison Pop	Parole Pop	Investment	Net Savings	Prison Pop	Parole Pop	Investment	Net Savings
Governor's wobbler sentencing changes	-12,663	0	\$0	\$292	-15,096	0	\$0	\$348
Governor's wobbler sentencing changes - trigger	-2,337	0	\$0	\$29	-14,904	0	\$0	\$372
Petty theft w/ prior to misdemeanor	-2,100	0	\$0	\$50	-4,200	0	\$0	\$101
Receiving stolen prop to misdemeanor	-1,650	0	\$0	\$40	-3,300	0	\$0	\$79
Make wobbler presumption misdemeanor	-1,500	0	\$0	\$38	-3,000	0	\$0	\$75
Update grand theft threshold	-500	0	\$0	\$12	-1,000	0	\$0	\$24
Less than 6 months to serve stay in jail	-2,100	0	\$0	\$52	-4,300	0	\$0	\$103
Less than 3 months to serve stay in jail	-250	0	\$0	\$6	-500	0	\$0	\$12
Expand drug and mental health courts	-1,000	0	\$8	\$16	-3,000	0	\$24	\$48
Legalize marijuana	-675	0	\$0	\$16	-1,350	0	\$0	\$32

* Governor's Budget Proposals

Options to Improve Prison Operations and Outcomes

(Dollars in Millions)

Savings Options	2010-11				Full Implementation			
	Prison Pop	Parole Pop	Investment	Net Savings	Prison Pop	Parole Pop	Investment	Net Savings
Governor's SCAAP increase assumption	0	0	\$0	\$880				
Governor's inmate health care proposals	0	0	\$523	\$279	0	0	\$523	\$279
Eliminate remaining rehab programs - trigger	0	0	\$0	\$172	0	0	\$0	\$172
Alternative custody - broad authority	-6,300	6,300	\$0	\$121	-6,300	6,300	\$0	\$121
Alternative custody - limited authority	-1,000	1,000	\$0	\$21	-1,000	1,000	\$0	\$21
Reduce CDCR headquarters costs 10 percent	0	0	\$0	\$40	0	0	\$0	\$40
Expand community-based female and furlough programs	-1,000	0	\$24	\$0	-2,000	0	\$48	\$12
Improve effectiveness of programs - fidelity assessments	-100	100	\$2	\$0	-500	500	\$4	\$7
Eliminate Three Strikes for non-s/v	-2,500	2,500	\$10	\$43	-10,000	0	\$0	\$240
Eliminate death penalty	0	0	\$0	\$137	0	0	\$0	\$137
Reduce time served for parole violators	-3,100	3,100	\$0	\$66	-6,300	6,300	\$0	\$132
Change medical guarding policies to not require two correctional officers per inmate	0	0	\$0	\$24	0	0	\$0	\$24

* Governor's Budget Proposals

Options to Improve Reentry and Parole and Reduce Recidivism

(Dollars in Millions)

Savings Options	2010-11				Full Implementation			
	Prison Pop	Parole Pop	Investment	Net Savings	Prison Pop	Parole Pop	Investment	Net Savings
Governor's proposal to increase parole caseloads - trigger	0	0	\$0	\$65	0	0	\$0	\$65
Governor's proposal to bank low-risk serious, violent parolees - trigger	0	0	\$0	\$14	0	0	\$0	\$14
Governor's parolee reentry court proposal	-100	100	\$2	\$1	-100	100	\$2	\$1
Realign parole to probation	0	-100,000	\$450	\$450	0	-100,000	\$450	\$450
Prohibit technical violations	-6,300	6,300	\$0	\$132	-12,500	12,500	\$0	\$263
Expand alternatives to revocation	-900	900	\$10	\$10	-1,900	1,900	\$20	\$20
Earned discharge	0	-5,000	\$0	\$15	0	-10,000	\$0	\$30
"SB 678" for parole	-900	900	\$5	\$15	-1,700	1,700	\$10	\$30
Reduce use of GPS	0	0	\$0	\$25	0	0	\$0	\$25

* Governor's Budget Proposals

**Joint Hearing on CDCR: Options for Improved Operations and Outcomes
List of Research, Reports, and Resources**

Following is a list of reports and resources regarding public safety policy (some of which are highlighted in this agenda). The list includes links to national websites and reports, California specific reports, and examples from other states. These links highlight the vast amount of existing research available to California to use in addressing our state's public safety policies, specifically as they relate to the costs of incarceration and the effectiveness of prison and community programs aimed at reducing recidivism.

To summarize what many reports on California's prisons have found, the 2007 Expert Panel Report on Adult Offender and Recidivism Reduction Programming cited its agreement with a 2007 Little Hoover Commission report that California doesn't need additional reports on correctional reform measures. The Expert Panel advised that what California needs to do is implement some of the proposals that have already been presented to it. In addition, the Expert Panel cited that a review of 15 reports concerning California's adult prisons revealed that all of the reports recommended essentially the same ten things (listed below). It is worth noting that while California has made progress in some of these areas, the state has arguably taken steps backwards in others:

1. Stop sending non-violent, non-serious offenders to prison (particularly for technical parole violations).
2. Use a standardized risk and needs assessment tool to match resources with needs and determine appropriate placements for evidenced-based rehabilitation programs.
3. Develop and implement more and better work, education, and substance abuse treatment programs for prisoners and parolees.
4. Reform California's determinate sentencing system to reward prisoners for participating in rehabilitation programs and allow the system to retain prisoners who represent a continued risk to public safety.
5. Move low risk prisoners to community-based facilities toward the later part of their sentences to foster successful reintegration and save more expensive prison-based resources.
6. Create a sentencing policy commission or some other administrative body that is authorized to design new sentencing statutes into a workable system that balances uniformity of sentencing with flexibility of individualization.
7. Reform California's parole system so that non-serious parole violators are handled in community based intermediate facilities and more violent parole violators are prosecuted for new crimes.
8. Create viable partnerships between state and local corrections agencies that would expand sentencing options, enhance rehabilitation services, and strengthen local reentry systems.
9. Evaluate all programs and require that existing and newly funded programs are based on solid research evidence.
10. Promote public awareness so that taxpayers know what they are getting for their public safety investment and become smarter and more engaged about California's prison system.

National Corrections Research Websites

- **National Institute for Corrections** – www.nicic.org
- **Urban Institute** – www.urban.org
 - Multisite Evaluation of Serious Violent Offender Initiative (2009) - http://www.urban.org/uploadedpdf/412075_evaluation_svori.pdf
 - Can Reentry Programs Be Cost-Beneficial (speech) - http://www.urban.org/uploadedpdf/901332_reentry_programs.pdf
 - Halfway Houses (congressional testimony) (2010) - http://www.urban.org/UploadedPDF/901322_lavigne_testimony_halfwayhome.pdf
 - Reducing Recidivism at the Local Level (congressional testimony) (2009) - http://www.urban.org/UploadedPDF/901296_reducing_recidivism.pdf
 - Role of Education During Incarceration and in Community (2009) - http://www.urban.org/uploadedpdf/411963_classroom_community.pdf
 - Role of US Parole in... (congressional testimony) (2009) - http://www.urban.org/UploadedPDF/901288_JannettaCongressionalTestimony.pdf
 - Employment After Release (2008) - http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf
 - Jail Administrator's Toolkit for Reentry (2008) - http://www.urban.org/UploadedPDF/411661_toolkit_for_reentry.pdf
- **Vera Institute of Justice** – www.vera.org
 - Fiscal Crisis in Corrections (2009) - http://www.pewcenteronthestates.org/uploadedFiles/Vera_state_budgets.pdf?n=5515
- **National Conference of State Legislatures** – www.ncsl.org
 - Cutting Corrections Costs: Earned Time Policies (2009) - http://www.pewcenteronthestates.org/uploadedFiles/Earned_time_report_%20NCSL.pdf?n=6022
- **National Council on Crime and Delinquency** - <http://www.nccd-crc.org/>
 - Task Force on California Prison Crowding (2006) – http://nccdcrc.issuelab.org/research/listing/task_force_on_california_prison_crowding
 - Prison in Crisis: A State of Emergency in California (Radio Documentary) (2008) - http://nccd-crc.issuelab.org/research/listing/prisons_in_crisis_a_state_of_emergency_in_california
- **National Institute of Justice** – <http://www.ojp.usdoj.gov/nij/>
- **Pew Center on Public Safety Performance** - http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=31336
 - Impact of Hawaii's Hope Program (2010) - http://www.pewcenteronthestates.org/uploadedFiles/Vera_state_budgets.pdf?n=5515
 - Maximum Impact: Targeting Supervision on Highest Risk (2009) - http://www.pewcenteronthestates.org/uploadedFiles/Maximum_Impact_web.pdf
 - Evidence-Based Sentencing (2009) - http://www.pewcenteronthestates.org/uploadedFiles/Final_EBS_Brief.pdf

- Putting Safety First: Strategies for Successful Parole and Reentry (2008) - http://www.pewcenteronthestates.org/uploadedFiles/13_strategies.pdf
- State-Local Fiscal Relationships (2008) - [http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008\(1\).pdf](http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008(1).pdf)
- Steps to Strengthen Performance (2008) - [http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008\(1\).pdf](http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008(1).pdf)
- Impact of Incarceration on Crime (2008) - [http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008\(1\).pdf](http://www.pewcenteronthestates.org/uploadedFiles/State-Local%20Fiscal%20Partnerships%20July%202008(1).pdf)
- Changing Directions in Texas (2008) - <http://www.pewcenteronthestates.org/uploadedFiles/Whitmire%20Madden%20QA.pdf>
- Smart Responses to Parole Violations (2007) - http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/Condition-Violators-Briefing.pdf
- What Works in Corrections: Interview with Joan Petersilia (2007) - http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/Condition-Violators-Briefing.pdf
- You Get What You Measure: COMPSTAT (2007) - http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/Condition-Violators-Briefing.pdf

California Specific Research Reports and Websites

- **Center for Evidence-Based Corrections (UC Irvine)** – <http://ucicorrections.seweb.uci.edu>
 - Understanding California Corrections (2006) - <http://ucicorrections.seweb.uci.edu/pdf/cprcsummary.pdf>
 - Expert Panel Report (2007) - http://ucicorrections.seweb.uci.edu/pdf/Expert_Panel_Report.pdf
 - Meeting the Challenges of Rehabilitation in California's Prison and Parole System (2007) - <http://ucicorrections.seweb.uci.edu/files/Rehabilitation%20Strike%20Team%20Report.pdf>
 - California Department of Corrections and Rehabilitation Recidivism (2007) - <http://ucicorrections.seweb.uci.edu/files/CDCR%20Recidivism%20Reduction%20Program%20Inventory.pdf>
 - Implementation and Early Outcomes for the San Diego High Risk Sex Offender (HRSO) GPS Pilot Program (2007) - http://ucicorrections.seweb.uci.edu/files/HRSO_GPS_Pilot_Program.pdf
 - Parole Violations and Revocations in CA (2008) - <http://ucicorrections.seweb.uci.edu/files/Parole%20Violations%20and%20Revocations%20in%20California.pdf>
 - CPAP Assessment of CDCR Recidivism-Reduction Programs (2008) - <http://ucicorrections.seweb.uci.edu/files/CPAP%20Assessment%20of%20CDCR.pdf>
- **Little Hoover Commission** – www.lhc.ca.gov
 - Solving California's Corrections Crisis (2007) - <http://www.lhc.ca.gov/studies/185/Report185.pdf>

- Reconstructing Government: A Review of the Governor's Plan Reforming California's Youth & Adult Correctional Agency (2005) - <http://www.lhc.ca.gov/studies/179/report179.pdf>
- Breaking Barriers for Women on Parole (2004) - <http://www.lhc.ca.gov/studies/177/report177.pdf>
- Back to the Community: Safe and Sound Parole Policies (2003) - <http://www.lhc.ca.gov/studies/172/report172.pdf>
- Beyond Bars: Correctional Reforms to Lower Prison Costs and Reduce Crime (1998) - <http://www.lhc.ca.gov/studies/144/report144.pdf>
- Putting Violence Behind Bars: Redefining the Role of California's Prisons (1994) - <http://www.lhc.ca.gov/studies/124/report124.pdf>
- **California Research Bureau**
 - Community Correction Punishments: An Alternative to Incarceration for Nonviolent Offenders (1996) - <http://www.library.ca.gov/CRB/96/08/index.html>
 - Community Treatment and Supervision of Sex Offenders: How It's Done Across the Country and in CA (2004) - <http://www.library.ca.gov/crb/04/12/04-012.pdf>
 - Adult Parole and Probation in California (2003) - <http://www.library.ca.gov/crb/03/09/03-009.pdf>
 - Children of Incarcerated Parents (2000) - <http://www.library.ca.gov/crb/00/notes/v7n2.pdf>
 - California State Prisoners with Children (2003) - <http://www.library.ca.gov/crb/03/14/03-014.pdf>
 - Mentally Ill Offenders in California's Criminal Justice System (1999) - <http://www.library.ca.gov/crb/99/02/99002.pdf>
 - Probation for Adult and Juvenile Offenders: Options for Improved Accountability (1998) - <http://www.library.ca.gov/crb/98/14/98014.pdf>
- **Legislative Analysts Office** – www.lao.ca.gov
 - Criminal Justice Primer (2007) - http://www.lao.ca.gov/2007/cj_primer/cj_primer_013107.pdf
 - Achieving Better Outcomes for Adult Probation (2009) - http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf
 - Reforming Education to Improve Public Safety (2008) – http://www.lao.ca.gov/2008/crim/inmate_education/inmate_education_021208.pdf
 - Enhancing Public Safety by Improving Parolee Employment (2007) - http://www.lao.ca.gov/analysis_2007/crim_justice/crimjust_anl07.pdf#page=102
- **UCLA School of Public Policy and Social Research**
 - Correctional Education as a Crime Control Program (2004) - <http://www.ceanational.org/PDFs/ed-as-crime-control.pdf>
- **Other California Reports**
 - Governor's Plan to Reorganize the Youth and Adult Correctional Agency (2005) - http://www.gov.ca.gov/pdf/press/press_release/GRP2.pdf
 - Blue Ribbon Commission on Inmate Population Management (1990) - <http://www.ncjrs.gov/App/publications/Abstract.aspx?id=123706>

Other States Research and Reports

- **Washington State Institute for Public Policy** – www.wsipp.wa.gov
 - “Evidence-Based Public Policy Options...” (2006) – www.wsipp.wa.gov/rptfiles/06-10-1201.pdf
 - Fight Crime and Save Money: Development of an Investment Tool (2010) - <http://www.wsipp.wa.gov/rptfiles/10-04-1201.pdf>

- **Texas Public Policy Foundation**
 - Texas Criminal Justice Reforms: Lower Crime, Lower Costs (2010) - <http://www.texaspolicy.com/pdf/2010-01-PP04-justicereinvestment-ml.pdf>
 - Thinking Outside the Cell: Solutions for Public Safety, Victims, and Taxpayers (2009) – <http://www.texaspolicy.com/pdf/2009-NCSLPPTJusticeReform-final.pdf>
 - Controlling Corrections Costs While Protecting Public Safety (2009) – <http://www.texaspolicy.com/pdf/2009-05-PB07-controlcosts-ml.pdf>

- **Florida Office of Program Policy Analysis and Government Accountability**
 - Intermediate Sanctions for Non-Violent Offenders Could Produce Savings (2010) – <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1027rpt.pdf>
 - Department of Corrections Should Maximize Use of Best Practices in Inmate Rehabilitation Efforts (2009) - <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0944rpt.pdf>
 - Higher Priority Should Be Given to Transition Services to Reduce Inmate Recidivism (2007) – <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0717rpt.pdf>

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 13, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultants: Brian Brown and Kris Kuzmich

“OPEN ISSUES” HEARING

Item Number and Title

0250	Judicial Branch
0502	Office of the State Chief Information Officer
0820	Department of Justice
1760	Department of General Services
2240	Department of Housing and Community Development
8380	Department of Personnel Administration
8790	California Commission on Disability Access
8830	California Law Revision Commission
8840	Commission on Uniform State Laws
8940	Military Department
8955	Department of Veterans Affairs
	Proposed Capital Outlay Trailer Bill Language
CS 31.00	Budget Act Administrative Procedures for Salaries and Wages

(Please see detailed agendas on pages 2 thru 4 for a 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.

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	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Office of the State Chief Information Officer (0520)				
1	California Child Support Automation System Migration Project	\$6,024,000	Technology Services Revolving Fund	APPROVE
2	Distributed Administration for Public Safety Communications Department	\$2,061,000	Technology Services Revolving Fund	APPROVE
3	Homeland Security Grant Program	\$4,700,000	Reimbursements	APPROVE
4	Sacramento Public Safety Communications Decentralization Project	\$3,210,000	Variety of bond and special funds	APPROVE
Department of General Services (1760)				
1	Building Standards Commission Workload Augmentation and Green Building Education	\$386,000	Building Standards Administration Service Revolving Fund	APPROVE
2	Public Safety Communications Department Indirect Cost	(-) \$2,061,000	Service Revolving Fund	APPROVE
3	Library and Courts Building Renovation and Deuel Vocational Institute, Tracy, Hospital Building Structural Retrofit	Library: \$59,645,000 Deuel: \$3,740,000	<u>Library</u> : Lease Revenue Bonds <u>Deuel</u> : Earthquake Safety and Public Building Rehabilitation	APPROVE
4	Office Buildings 8 and 9, and Office Building 10 Renovation Projects Extension of Liquidation Periods	Buildings 8 and 9: \$17,274,000 Building 10: \$569,000	Lease Revenue Bonds	APPROVE
5	Sacramento Public Safety Communications Decentralization Project Savings Reversion	(-) \$1,508,000	Variety of bond and special funds	APPROVE

Issues Proposed for Vote Only, Continued (Page 2 of 3):

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Department of Housing and Community Development (2240)				
1	Green Building Standards Education and Outreach	\$108,000	Building Standards Administration Service Revolving Fund	APPROVE
2	American Recovery and Reinvestment Act Position Authority	\$612,000	Federal Trust Fund	APPROVE
3	Housing Choice Voucher Program – Mariposa County Expansion	\$864,000	Federal Trust Fund	APPROVE
Department of Personnel Administration (8380)				
1	21st Century Project	\$278,000	Reimbursements	APPROVE
California Commission on Disability Access (8790)				
1	Disability Access Laws	\$500,000	General Fund	APPROVE
Military Department (8940)				
1	State Active Duty Employee Compensation Increase	\$1,350,000	\$698,000 General Fund; \$652,000 Federal Trust Fund	APPROVE
Department of Veterans Affairs (8955)				
1	Northern California Veterans Cemetery Expansion Project	\$1,124,000	Federal funds	APPROVE
Proposed Capital Outlay Trailer Bill Language				
1	Statewide Minor Capital Outlay Project Limit Update	n/a	n/a	DENY
Control Section 31.00				
1	Administratively Established Positions	n/a	n/a	APPROVE
Judicial Branch (0250)				
1	Proposed Trailer Bill Language: Parking Penalties	n/a	n/a	APPROVE
2	Proposed Trailer Bill Language: Penalty Assessment Adjustments	n/a	n/a	APPROVE

Issues Proposed for Vote Only, Continued (Page 3 of 3):

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Department of Justice (0820)				
1	Western State Information Network	-\$5,994,000 \$5,994,000	Federal Trust Fund Reimbursements	APPROVE
California Law Revision Commission (8830)				
1	Funding shift	-\$666,000 \$666,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year
Commission on Uniform State Laws (8840)				
1	Funding shift	-\$148,000 \$148,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year

VOTE:

Vote Only Items – Issue Descriptions

Office of the State Chief Information Officer (0502)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – April Finance Letter: California Child Support Automation System Migration Project (Issue 102)

Governor's Request. The Governor requests increased expenditure authority of \$6.024 million (Technology Services Revolving Fund) for the Office of Technology Services (OTech) to re-host the Department of Child Support Services (DCSS) California Child Support Automation System (CCSAS) from a private vendor to OTech before the expiration of the existing hosting service contract in October 2010.

Background. In 2008, DCSS successfully completed the statewide transition of California's 52 county and regional child support agencies to the new single statewide child support automation system. Since the original approval in 2003, the CCSAS project has been planned by DCSS to transition from the external Business Partner to the state. The federal government may also discontinue funds to the state if the CCSAS project is not under state management. The resources in this request are needed for the transition, future funding, and the replacement of outdated equipment. The transition will be phased in over a nine to 12 month period and OTech will enter into an agreement with DCSS and collect the investment in this migration project over time through its rate and cost recovery structure. At its May 6 hearing, Subcommittee No. 3 approved the primary request related to CCSAS, namely continued funding for the system including transitioning it from vendor-provided services to in-house state services.

The April Finance Letter also refers back to Provision 2 from the 2009-10 Fiscal Year for display purposes of current year expenditure and position adjustments related to the CCSAS project.

Staff Recommendation. APPROVE.

Issue 2 – April Finance Letter: Distributed Administration for Public Safety Communications Department (Issue 103)

Background. The Governor requests increased expenditure authority of \$2.061 million (Technology Services Revolving Fund) and nine positions to complete the transfer of indirect services that support the Public Safety Communication Division from the Department of General Services (DGS) to the Office of the State Chief Information Officer (OCIO), as part of the 2009 Governor’s Reorganization Plan No. 1 (GRP 1).

Staff Comment. In approving this request, a conforming action is taken in DGS’s Budget and Item 1760-001-0666, decreasing it by \$2.061 million (Service Revolving Fund) to reflect the transfer of these nine positions from DGS to the OCIO (DGS Issue 2 on Page 12 in this agenda). The net effect of these two April Finance letters is zero total increase in budget authority.

Staff Recommendation. APPROVE.

Issue 3 – April Finance Letter: Homeland Security Grant Program (Issue 101)

Background. The Governor requests increased expenditure authority of \$4.7 million (Reimbursements) to allow the Office of Information Security to receive the \$4.7 million federal grant fund awarded by the Department of Homeland Security through the California Emergency Management Agency. The grant will fund three cyber security projects: (1) State-level Geographic Information Systems Web Services Hosting; (2) State Enterprise Cyber Security Risk Assessment Program; and (3) Secure ca.gov Domain Name System Project. The federal grant funds will be spent over two years beginning in 2010-11.

Staff Comment. These federal grant funds will aid the state in developing a balanced information security program to align the state with the federal .gov domain security objectives. Each grant program will strengthen communication capabilities, information sharing, and collaboration, enhance protection of critical infrastructure and key resources, and improve catastrophic planning, response, and recovery.

Staff Recommendation. APPROVE.

Issue 4 – May Capital Outlay Finance Letter: Sacramento Public Safety Communications Decentralization Project

Governor’s Request. The Governor requests to reappropriate \$3.21 million (variety of bond and special funds) in working drawing funds for the Sacramento Public Safety Communications Decentralization project (Project).

Background. When complete, the Project will relocate critical public safety communications from the top floor of the Resources Building in Sacramento to establish a “communications ring” at various outlying sites in the Northern California region, similar to one established in Southern California, thereby strengthening the viability of the state’s overall Public Safety Communications System in the event of an outage at any one site. Midstream responsibility for this Project shifted from the Department of General Services (DGS) to the OCIO, consistent with the terms of the 2009 Governor’s Reorganization Plan which consolidated information technology (IT) under the OCIO. More specifically, while acquisition and preliminary plan phase funding was provided as part of DGS’s budget in 2007-08 and 2008-09, working drawing phase funding of \$3.21 million was provided in 2009-10 as part of the OCIO’s budget. Future anticipated construction costs are \$9.8237 million (2011-12) utilizing the same variety of bond and special funds, with the exception that an alternative funding source will replace the 1990 Seismic Bonds.

Issue 5 on Page 13 in this agenda discusses DGS’ request to revert \$1.508 million in savings in the acquisition and preliminary plan phases of the Project. Due to the freeze of disbursements on interim financing for bond funded projects, as well as delays encountered during the acquisition phase while the OCIO negotiated the use of one of the key sites on which it plans to construct a telecommunications tower, the OCIO requests to reappropriate the working drawing funds for this project to ensure their availability through June 2011.

Staff Recommendation. APPROVE.

Department of General Services (1760)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – Building Standards Commission Workload Augmentation and Green Building Education (BCPs #1 and #2)

This request was “held open” on March 11, 2010, to allow time for receipt of additional information from the Department of Housing and Community Development and DGS to ensure the departments’ Green Building Standards education and outreach efforts are coordinated in their approach.

Governor’s Request. The January Governor’s Budget requests three redirected positions from the Division of the State Architect and increased expenditure authority of \$350,000 (Building Standards Administration Service Revolving Fund, or 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, education and outreach, and the management of fee revenue.

Background. The Building Standards Commission (BSC) is responsible for administering California’s building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years, 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. 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 2010-11.

Staff Comments. Both HCD and the DGS 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, both residential and commercial, about the new and efficient green building standards. This request was held open to

allow receipt of additional information from HCD and DGS to ensure the education and outreach effort is coordinated in its approach.

Staff Recommendation: APPROVE.

Issue 2 – April Finance Letter: Public Safety Communications Department Indirect Cost

Background. The Governor requests a *reduction* in the DGS Service Revolving Fund Budget of \$2.061 million to reflect the transfer of 9.0 positions from DGS to the Office of the Chief Information Officer (OCIO). These positions provide indirect services to the Telecommunications Division, which was transferred to the OCIO under the 2009 Governor’s Reorganization Plan No. 1.

Staff Comment. This action conforms to OCIO Issue 2 on Page 9 in this agenda. The net effect of these two April Finance letters is zero total increase in budget authority. Staff notes that this request additionally includes technical corrections to the provisional language for DGS to properly allocate the amount for Base Rentals and Fees within their budget. This portion of the request is separate and apart from the adjustment related to the OCIO; the overall dollar impact of the Base Rentals and Fees adjustment is zero.

Staff Recommendation. APPROVE.

Issue 3 – April Finance Letters: Library and Courts Building Renovation and Deuel Vocational Institute, Tracy, Hospital Building Structural Retrofit

Background. The Governor requests re-appropriation of the unencumbered balances for the Library and Courts Building, Sacramento, renovation project (\$59.645 million, lease revenue bonds) and the California Department of Corrections and Rehabilitation Deuel Vocational Institute, Tracy, Hospital Building, structural retrofit project [\$3.740 million, Earthquake Safety and Public Building Rehabilitation (seismic bond) funds]. Due to the freeze of disbursements on interim financing for bond funded projects, both of these projects were suspended temporarily. The projects have resumed, however the corresponding delays make it necessary to re-appropriate the unspent balances of the requested funds to allow Department of General Services to fulfill its responsibilities for the identified projects moving forward.

Staff Recommendation. APPROVE.

Issue 4 – May Capital Outlay Finance Letter: Office Building 8 and 9 and Office Building 10 Renovation Projects Extension of Liquidation Periods (COBCP RA-4 and RA-3, respectively)

Governor’s Request. The Governor requests to extend the liquidation period for the unencumbered balances of appropriations for the construction phases of the Office Building 8, 9, and 10 (OB 8 and 9, and OB 10) Renovation projects. For OB 8 and 9, located at 714 P Street, the amount requested is \$17.274 million (lease revenue bonds). For OB 10, located at 721 Capitol Mall, the amount requested is \$569,000 (lease revenue bonds).

Background. With regard to OB 10, the renovation project is substantially complete, however, some minor construction work related to the floors in the building remain outstanding. As a result, DGS requests a one-year extension, until June 30, 2011, of the liquidation period to complete the project.

With regard to OB 8 and 9, DGS suspended all activities as a result of the Pooled Money Investment Board decision to freeze disbursements on interim financing for bond funded projects. While the OB 8 and 9 project has resumed, the corresponding delays extended the construction completion date to July 23, 2010. In order to achieve LEED certification and complete the warranty phase of the project, availability of funds will be required until June 30, 2012. Therefore, DGS requests a one-year extension, until June 30, 2012, for the remaining funds.

Staff Recommendation. APPROVE.

Issue 5 – May Capital Outlay Finance Letter: Sacramento Public Safety Communications Decentralization Project Savings Reversion

Governor’s Request. The Governor requests to partially revert \$1.508 million (variety of bond and special funds) in savings in the acquisition (\$1.225 million) and preliminary plan (\$283,000) phases of the Sacramento Public Safety Communications Decentralization project (Project).

Background. When complete, the Project will relocate critical public safety communications from the top floor of the Resources Building in Sacramento to establish a “communications ring” at various outlying sites in the Northern California region, similar to one established in Southern California, thereby strengthening the viability of the state’s overall Public Safety Communications System in the event of outage at any one site. The savings result from a change in delivery method from acquisition and development of five sites on which to construct telecommunications towers around the Sacramento area, to a predominant plan to utilize existing state-owned facilities and to lease tower and vault space with limited development required. Acquisition and preliminary plan phase funding was provided as part of DGS’ budget in 2007-08 and 2008-09,

respectively. Working drawing phase funding of \$3.21 million was provided in 2009-10 as part of the Office of the State Chief Information Officer's (OCIO) budget. The OCIO will also submit a corresponding request to reappropriate working drawing funds (also proposed as vote only, Issue 4 on Page 10 in this agenda). Future anticipated construction costs are \$9.8237 million (2011-12) utilizing the same variety of fund sources, with the exception that an alternative funding source will replace the 1990 Seismic Bonds.

Staff Recommendation. APPROVE.

Department of Housing and Community Development (2240)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – Green Building Standards Education and Outreach (BCP #3)

This request was “held open” on March 11, 2010, to allow time for receipt of additional information from the Department of General Services and HCD to ensure the departments’ Green Building Standards education and outreach efforts are coordinated in their approach.

Governor’s Request. The January Governor’s Budget 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 Building Standards Commission (BSC) is responsible for administering California's building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years, 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. 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 2010-11.

Staff Comments. Both HCD and the DGS 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, both residential and commercial, about the new and efficient green building standards. This request was held open to allow receipt of additional information from HCD and DGS to ensure that the education and outreach effort is coordinated in its approach.

Staff Recommendation: APPROVE.

**Issue 2 – American Recovery and Reinvestment Act Position Authority
(BCP #5)**

Governor’s Request. The January Governor’s Budget requests \$612,000 (Federal Trust Fund) and six positions to administer the American Recovery and Reinvestment Act (ARRA) of 2009.

Background. The 2009 Budget Act appropriated \$10.6 million to the Community Development Block Grant Recovery (CDBG-R) and \$44.5 million to the Homelessness Prevention and Rapid Re-Housing Program (HPRP). These funds must be spent as follows: (1) CDBG-R funds must be spent within three years with close-out activities, monitoring, and reporting continuing into 2012-13; and, (2) HPRP funds must be obligated by September 30, 2009, 60 percent expended in 2010-11, and the remaining funds spent within three years or by 2012-13. Contracts will expire on September 30, 2012 and close-out activities, monitoring, and reporting will continue into 2012-13. In 2009-10, HCD handled staffing needs to implement these two programs by redirecting seven vacant positions. ARRA provides administrative funding to administer the programs, hence this request.

Staff Comment. As noted above, all responsibilities related to these two programs will be completed by the end of the 2012-13 fiscal year. In response to a staff inquiry as to why the positions should not be limited to such a term, HCD indicated that these positions may exist only to the extent that federal funds for this purpose remain. At the end of the term of the funds, the positions will inherently be eliminated. By not making them limited term positions, it eliminates the need to re-establish the positions in two years (as required under current law), and allows the positions to remain in place as long as the funding and workload exist. When Assembly Budget Subcommittee No. 4 considered this request, it approved the request but made the positions three-year limited-term. Staff recommends the Subcommittee take a similar conforming action and make the positions three-year limited-term.

Staff Recommendation. APPROVE positions as three-year limited-term.

Issue 3 – April Finance Letter: Housing Choice Voucher Program – Mariposa County Expansion (FL #2)

Governor’s Request. The Governor requests increased expenditure authority of \$543,000 (Federal Trust Funds) for local assistance and \$321,000 (Federal Trust Funds) for state operations costs to administer the 165 monthly vouchers for Mariposa County's Housing Choice Voucher Program, as well as bring current federal expenditure authority up to current federal funding eligibility levels.

Background. HCD currently acts as the Public Housing Authority in 12 rural counties. With 165 monthly housing vouchers, the Mariposa program is the smallest in California. The Mariposa County Housing Authority has determined that it is no longer capable of administering its Housing Choice Voucher Program, and the Mariposa County Board of Supervisors has requested the funding and responsibility for the program to be transferred to HCD. By accepting the transfer of the Mariposa Program, HCD will administer 950, instead of 785, housing vouchers in 13, instead of 12, California counties. HCD has determined that this program is eligible for more funds than Mariposa was drawing down, and requests funds to bring the request up to the maximum amount eligible.

Staff Recommendation. APPROVE.

Department of Personnel Administration (8380)

Department Overview. The Department of Personnel Administration (DPA) is the Governor’s chief personnel policy advisor. The DPA represents the Governor as the “employer” in all matters concerning state employer-employee relations. DPA is responsible for all issues related to salaries, benefits, and position classification. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

Budget Overview. The January Governor’s Budget proposes \$86.9 million (\$10.3 million General Fund) to fund the DPA.

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$85,801,000	\$86,183,000	\$86,939,000
Personnel Years	217.6	246.8	241.1

Issue 1 – April Finance Letter: 21st Century Project

Background. The Governor requests a technical adjustment to the DPA budget item to increase reimbursements by \$278,000 to allow the DPA to continue as an active participant in the 21st Century Project. 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. This amendment conforms to changes made in the State Controller’s Office budget during the fall process.

Staff Recommendation. APPROVE.

California Commission on Disability Access (8790)

Department Overview. Chapter 549, Statutes of 2008 (SB 1608) established the Commission on Disability Access (Commission), a 17-member independent body consisting of 11 public members and six ex officio nonvoting members. The stated goal of the Commission is promoting better compliance with the Americans with Disability Act (ADA). The Commission is intended to act as an information center on disability access compliance, conduct various studies, compile reports regarding compliance, inspection programs, training, and continuing education requirements, create a master compliance checklist for use by building inspectors, and evaluate the success of code sections intended to reduce unnecessary civil actions.

Budget Overview. The Commission was created on January 1, 2009. The 2008-09 Budget appropriated \$80,000 to the Commission, but due to delays in appointing the Commissioners, that funding was carried over to 2009-10. The Commission indicates that it will expend the full \$80,000 in the current budget year.

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$0	\$80,000	\$500,000
Personnel Years	0	0	3

Issue 1 – April Finance Letter: Disability Access Laws (FL BCP-1)

Governor’s Budget Request. The Governor requests \$500,000 (General Fund) and three staff positions to begin meeting the requirements of Chapter 549, Statutes of 2008 (SB 1608), as outlined above. The request is a “phased-in” approach that will allow the Commission to begin fulfilling its statutory requirements, but does not fully fund the Commission.

Staff Comment. This request is in line with the cost estimates provided for SB 1608 when it was pending before the Legislature, which estimated annual General Fund costs for the Commission of around \$600,000 to \$800,000 with a five person staff.

Staff Recommendation. APPROVE.

Military Department (8940)

This Department was heard on March 25, 2010; please see that agenda for department and budget overview information.

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

Governor’s Request. The Governor's January Budget requests a baseline augmentation of \$1,454,000 (\$760,000 General Fund and \$694,000 Federal Trust Fund) to cover the estimated State Active Duty (SAD) employee compensation increases to be granted effective January 1, 2010 and estimated to be granted January 1, 2011.

Staff Comment. The Subcommittee heard and approved this request at its March 25, 2010, hearing. However, following that action, the federal adjustment for July 1, 2010, to June 30, 2011, was updated. The new estimate is \$1.35 million, a difference of \$104,000, which necessitates this request being reopened and adjusted down to reflect the updated federal adjustment.

Staff Recommendation. RE-APPROVE request with a technical adjustment of (-)\$104,000 [(-)\$62,000 GF and (-)\$42,000 Federal Trust Fund] reflective of an updated estimate of \$1.35 million for SAD Employee Compensation increases.

Department of Veterans Affairs (8955)

This Department was heard on March 25, 2010; please see that agenda for department and budget overview information.

Issue 1 – May Capital Outlay Finance Letter: Northern California Veterans Cemetery Expansion Project

Governor’s Request. The Governor requests a technical funding adjustment of \$1.124 million (federal funds) to satisfy the new scope change associated with the Northern California Veterans Cemetery Expansion Project (Project).

Background. Working drawings and construction for the Project were appropriated in 2009-10 for a scope change adding an additional 1,200 columbarium niches (walls with niches for interring cremated remains). Since that time, the U.S. Department of Veterans Affairs approved a larger Project to instead fund 2,000 columbarium niches. This request seeks a funding adjustment to satisfy the additional scope change and revert the 2009-10 appropriations for working drawings and construction and appropriating in 2010-11, including the additional federal funds.

Staff Recommendation. APPROVE.

Proposed Capital Outlay Trailer Bill Language: Statewide Minor Capital Outlay Project Limit Update

Governor's Request. The January Governor's Budget requests proposed trailer bill language to update the project limit for statewide minor capital outlay from the current level of \$400,000 to \$800,000 and require the Department of Finance to adjust the minor capital outlay project limit every two years to reflect the percentage change in the annual California Construction Index.

Background. Statewide capital outlay projects are budgeted as either major or minor projects. Major capital outlay projects are those with a total cost exceeding \$400,000. Each major capital outlay project is budgeted to an agency as a separate line item and in one or more phases; i.e., land acquisition, preliminary plans, working drawings, construction, and equipment. With the exception of some state agencies that have delegated authority, major capital outlay projects are administered by the Department of General Services (DGS) on behalf of the various state agencies. Minor capital outlay projects are those with total costs of \$400,000 or less, and are typically budgeted in a lump sum appropriation to the state agency. For example, in 2009-10, the California Department of Corrections and Rehabilitation minor capital outlay appropriation totaled \$3.9 million. In general, state departments can contract directly for minor capital outlay projects without using DGS management services. The \$400,000 limit for minor capital outlay was established in statute in 2001 and had not been updated since that time.

Staff Comment. Staff notes that this proposed trailer bill language is also being pursued in the policy process in AB 2181 (Hagman). AB 2181 passed the Assembly Appropriations Committee on May 5 and is pending further action on the Assembly Floor.

Staff Recommendation. Without prejudice, DENY the proposed trailer bill language pertaining to statewide minor capital outlay project limit and defer to AB 2181 in the policy process.

Control Section 31.00 – Budget Act Administrative Procedures for Salaries and Wages

Background. Authorized positions may be established as individual positions or as blanket authorizations (seasonal, temporary help, and overtime). Generally speaking, positions administratively established in the previous year may not be reestablished as workload adjustments in the following year. If an administratively authorized position has been established and has been paid from blanket funds, the position will terminate on June 30 of the current year. However, the position may be reestablished upon approval of the Department of Finance, provided it is included in the budget being submitted to the Legislature and that it does not result in the establishment of positions deleted by the Legislature. Control Section 31.00 of the annual Budget Act formally establishes these restrictions on administratively established positions.

Staff Comment. The Legislature has historically included Control Section 31.00 in the budget in recognition of the fact that situations change throughout the year and the Administration needs some flexibility to meet program and staffing needs. However, circumstances have arisen that have drawn into question the practices of some departments with regard to the rules in Control Section 31.00.

Staff Recommendation. To ensure that the Legislature is properly informed about the use of Control Section 31.00, APPROVE adding the following language to Control Section 31.00:

"(g) Requests to continue administratively-established positions as ongoing positions pursuant to (d) (1) and (2) shall include information on the date the positions were administratively established. This information should be included in the Administration's budget change proposals and finance letters. If the Administration requests to establish new positions in 2011-12, and subsequently decides to administratively establish the positions in 2010-11, the Department of Finance will notify the Legislature within 30 days of the administrative establishment of the positions."

Judicial Branch (0250)

Issue 1 – Proposed Trailer Bill Language: Parking Penalties

Background. 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 Administrative Office of the Courts (AOC) and the California State Association of Counties (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.

Staff Recommendation. APPROVE.

Issue 2 – Proposed Trailer Bill Language: Plumas and Sutter County Penalty Assessment Adjustments

Background. 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 courthouse construction funds. The AOC notes that the amount identified for Plumas County incorrectly states that the surcharge is \$5 when it should read \$7. Similarly, the amount identified for Sutter County is \$3 when it should read \$6. The AOC notes that Plumas County has otherwise been authorized to collect \$7 for this purpose since 1992.

Staff Recommendation. APPROVE.

Department of Justice (0820)

Issue 1 – Western States Information Network

Background. The department requests a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of \$5,994,000. The DOJ has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. This change necessitates the proposed technical adjustment to fund this program through reimbursement authority instead of federal funds.

Staff Recommendation. APPROVE.

California Law Revision Commission (8830)

Issue 1 – Funding Shift

Background. The Governor's budget proposes to shift General Fund support of \$666,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11.

Staff Recommendation. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

Commission on Uniform State Laws (8840)

Issue 1 – Funding Shift

Background. The Governor’s budget proposes to shift General Fund support of \$148,000 for the CLRC to reimbursement from the Legislature’s budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11.

Staff Recommendation. Staff recommends modification of the Governor’s proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

DEPARTMENT OF JUSTICE (0820)

Department 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.

Issues Proposed for Discussion / Vote:

Issue 1 – Gun Show Program Augmentation

Background. In 2000-01, DOJ received funding to establish an enforcement team for purposes of preventing sales of illegal firearms and ammunition by monitoring and investigating buyers and sellers participating in gun shows throughout California. This program currently has four agents assigned to it.

Governor's Budget. 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 Dealers' Record of Sales (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.

	2010-11
General Fund	-\$616,000
Dealer Record of Sale Account	\$801,000
PY's	0.9

Staff Comment. The DOJ reports that there are approximately 97 gun shows in California annually, ranging in size from 150 tables (vendors) to 5,300 tables per show. The department further reports that it has reduced its staffing of this program by 40 percent in recent years due to budget cuts. The proposed shift of the program from the General Fund to the DROS Account would result in General Fund savings of \$616,000. The Department of Finance projects the DROS Account to have a healthy fund balance of \$17.9 million at the end of the budget year, suggesting that the fund is fully capable of absorbing these additional costs.

Staff Recommendation. APPROVE.

VOTE:

0502	OFFICE OF THE STATE CHIEF INFORMATION OFFICER
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This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Review of the California Court Case Management System – Oversight Issue
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Background. In budget trailer bill language (SBx4 13, Chapter 22, Statutes of 2009), the Legislature required that the OCIO review and make recommendations regarding the Judicial Branch’s implementation of the California Court Case Management System (CCMS). The OCIO released its report in April.

Description of CCMS. In an effort to consolidate case management systems within the courts and increase the ability to share data statewide among the Administrative Office of the Courts (AOC), local superior courts, and state and local justice partners (e.g., the Department of Justice, the Department of Social Services, and local law enforcement agencies) the CCMS project was initiated in early 2002. The CCMS is a custom software development project that was developed in iterative phases, with the intent being that lessons learned from each phase would assist in the planning of the next phase.

CCMS V2 – The first phase product was scoped to include case management activities for traffic and criminal functions within the courts. The development of the V2 product was challenged and was ultimately only implemented in Fresno County in July of 2006.

CCMS V3 – The second phase product was scoped to include case management activities for civil, probate, small claims, and mental health functions within the courts. Different parts of the V3 product are currently deployed in six counties, including: Los Angeles, Orange, Sacramento, San Diego, San Joaquin, and Ventura. These installations represent approximately 25 percent of the state’s court caseload. Three of the installations (Los Angeles, Orange, and San Diego) host their own instances of both the application and the database. The rest of the counties use a shared system hosted at the California Courts Technology Center (CCTC), the AOC’s data center.

CCMS V4 – The third phase product was scoped to include:

- All of the functionality of V2 and V3;
- Family law and juvenile justice case management;

- A public/partner portal;
- A set of standard justice partner data exchanges;
- Integration with document management systems;
- Court interpreter scheduling;
- Court reporter scheduling, and;
- E-Filing.

The V4 product is currently in the integration testing phase. The AOC contracted with Deloitte Consulting for the development of V3 and V4 and most V3 deployment activities.

Current Status of the CCMS Project. The project is formally scheduled for only the development of the V4 product. The project is in the execution phase of the project management lifecycle and the integration testing phase of the System Development Life Cycle. The January 2010 project schedule depicted the project to be on schedule to meet the completion date of September 2010. However, the project team reported in late February that it expects to deviate from the September completion date due to issues discovered during the integration testing. The deviation is expected to be approximately six months to complete the V4 product build, delaying the product completion to April 2011. High level deployment planning for V4 currently calls for a three county pilot including San Diego, Ventura, and San Luis Obispo counties.

The OCIO reports that expenditures on CCMS have been reported as \$386 million through 2008-09. This includes one-time development and ongoing operation costs of deployed versions of V2 and V3, as well as development costs for V4. Total costs are currently estimated to be \$1.3 billion for one-time development, inclusive of V2, V3, and V4, and \$79 million for annual maintenance and operations.

OCIO Recommendation. Below are some of the key recommendations of the OCIO regarding the implementation of CCMS:

- **Governance.** The governance plan for CCMS should be augmented to ensure the commitment of the county superior courts to adopt and use the system. The benefits of the CCMS to the court system as a whole should take priority over the unique needs of individual courts. It is critical that the true needs and concerns of the superior courts are considered and addressed in a timely fashion.
- **Deployment Strategy.** The AOC should fully define, baseline, and document the extent to which the system will be deployed, and the timeline and resource requirements for the entire deployment phase. The AOC should not accept or deploy the V4 system beyond the first county superior court in the pilot phase until it is fully operational and utilizing live data. The CCMS project team should ensure that all system testing

activities and procedures are adhered to and completed in the live environment prior to start of the vendor warranty period.

- **Project Management.** The AOC should enhance the project and contract management resources dedicated to the CCMS project to ensure that the state's interests are being met by the vendor. The AOC should develop a detailed plan for how, and by whom, the system will be supported during the maintenance and operation period. The AOC should adopt a common methodology and tool set for project management across the Judicial Branch.
- **Cost Management.** The Judicial Branch should determine a cost cap for the project based on the value of the system to the Branch as well as to individual courts. The cost management plan and tools should define when projects start and stop, which project costs will be captured to what extent, and easily allows transparency to the projects complete one-time costs, and annual operational costs.
- **Technology Management and Review.** The system should be deployed to the maximum number of courts, and all courts should utilize a common database. The number of permutations of the CCMS application and database should be limited to achieve the maximum benefits to the system, particularly by hosting V4 at a centralized site for all courts, to the extent possible. The AOC should develop a well-governed process for coordinating changes and version control.

The OCIO believes that, despite the challenges to date, the CCMS project can be successfully implemented if the recommendations discussed above are implemented.

Staff Comment. The total development and deployment costs of CCMS (\$1.34 billion) are on par with other major state IT initiatives, including FISCAL (\$1.62 billion) and CCSAS-Child Support Enforcement (\$1.55 billion). To date, the Judicial Branch has funded the project through various special funds and reserves. However, the bulk of the implementation and deployment costs still remain. Moreover, the state has seen past examples of large-scale IT projects that have struggled to be implemented effectively, resulting in even greater costs to taxpayers than originally estimated. Given the magnitude of the costs anticipated, it is critical that the Legislature be comfortable that the courts will ably and successfully implement CCMS.

The Subcommittee may wish to address some of the following questions to the OCIO.

1. Which of your recommendations are most critical for successful implementation of CCMS?

2. What are the project and fiscal risks incurred if the Judicial Branch were to not implement your recommendations?
3. Why have counties that have implemented V2 and V3 had such different experiences regarding the functionality of CCMS?
4. How will the Legislature know going forward the degree to which CCMS is being implemented effectively considering that the OCIO does not maintain ongoing project oversight responsibilities?
5. What are the long-term fiscal and operational benefits of CCMS?
6. What were the issues identified with V4 that are causing the six month delay?

Staff Recommendation. No action (oversight item).

Issue 2 – Technology Services Revolving Fund Trailer Bill Language

This item was originally scheduled to be heard on March 11, 2010; without prejudice it was pulled from that agenda to be heard at a later date.

Governor’s Request. The Governor’s January budget requests trailer bill language to enact statutory changes to continue implementing the 2009 Governor’s Reorganization Plan No. 1 (GRP 1) related to information technology (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” (TSRF). GRP 1 also transferred duties related to the state’s procurement of IT from the Department of Finance, the Department of General Services, and the DTS to the OCIO. The proposed trailer bill language: (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 Comment. 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 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.

Staff Recommendation. APPROVE.

VOTE:

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Office of Public School Construction: Charter Schools Facilities Program (BCP #3)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$242,000 (2006 State School Facilities Funds) and two redirected departmental vacancies to establish best practices within the charter schools and to maintain the current level of service provided to charter schools and other parties associated with the Charter Schools Facilities Program (CSFP), as well as for program improvement.

Background. The CSFP provides charter schools with access to state bond funds. Finalizing a CSFP project is a four- or five-year process during which time the charter schools contact the Office of Public School Construction with questions and to seek further direction. The resources in this request are proposed to be dedicated solely to the workload of the CSFP. Currently the program is only achieving a 47 percent success rate (based on the number of projects that have gone on to complete construction of a new school). The Administration indicates that the positions in this request, funded from the bonds that are designated for construction of charter schools, are intended to increase that success rate, thereby leading to more schools being constructed.

Staff Comment. The most recent voter-approved education bond was Proposition 1D (November 2006), which provided \$10.416 billion for K-12 and higher education facilities. Prop 1D funds are anticipated to be depleted by early summer 2010. As of the March 2010 State Allocation Board meeting, only \$18 million remains for allocation; \$217 million remains for new construction. Given this dwindling balance of school construction bond funds, and the current lack of any plan for a new general obligation bond for school construction to be placed before the voters, the logic of authorizing new positions and increased expenditure authority as presented in this request is unclear to staff. A more prudent course of action would be for this request to be resubmitted when new revenue for school construction has been approved.

Staff Recommendation. DENY BCP#3.

VOTE:

Issue 2 – Office of Public School Construction: Information Technology (BCP #4)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$120,000 (2006 State School Facilities Funds) and one two-year limited-term position redirected from departmental vacancies to develop, implement, and maintain automated systems necessary for the Office of Public School Construction to administer the School Facility Program and to ensure proper bond accountability.

Staff Comment. Identical to the staff comment on the prior OPSC issue, staff questions the timing of this request in light of the dwindling availability of school construction bond funds. As noted above, the logic of authorizing increased expenditure authority and a new position, even if it is limited-term, is unclear given that current school construction bond funds are anticipated to be depleted this summer and there is a lack of any plan for a new general obligation bond for school facilities to be placed before the voters. Rather, working within existing authorized positions and expenditure authority, OPSC should be able to identify resources to provide for proper bond accountability.

Staff Recommendation. DENY BCP #4.

VOTE:

Issue 3 – Division of the State Architect Provisional Language

This request was heard on March 11, 2010, and “held open” pending receipt of additional information from the Administration.

Governor’s Request. The January Governor’s Budget 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. When the Subcommittee heard this request on March 11, concerns were raised about whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring. In addition, the Subcommittee questioned DSA about complaints from the field, particularly from K-12 schools, about delays in its plan review process. At that time, DSA testified it would provide regular monthly reporting about its "bin time," which they indicated was now below six weeks. In addition, DSA indicated it was creating a Performance Metrics Unit, which would in turn create a scorecard posted to its website that would provide regular updates about the plan review process, including bin time. Since that hearing, DSA has failed to deliver on the draft performance metrics and scorecard; DSA now indicates that the draft metrics will not be available until July 2010.

Staff Comment. The performance issues with DSA are longstanding and complaints from the field are not new. The Subcommittee wants to see timely review and approval of construction ready school plans, but it has no real way to ascertain if DSA's current process and practice is efficient or effective because this is an entity that has heretofore been off budget. For example, how can the Legislature know that getting the "bin time" under six weeks is a sound practice and approach to workload? Yet, DSA is proposing to build its performance metrics on its current foundation. This calls into question the legitimacy of those performance metrics. Because of these issues, staff notes that the Subcommittee may wish to consider a different and potentially more appropriate next step – to request an independent entity undertake a performance audit of DSA's school plan review process. Then, with that baseline performance review information, the Subcommittee can determine with greater certainty the points where interventions make sense, as well as make necessary work process improvements and determine appropriate staffing levels for DSA.

With regard to the performance audit, staff notes that there is an obvious interest in accelerating the audit to begin in the current year. This is doable because DSA is currently off-budget and continuously appropriated and can therefore use current year funding to begin the audit immediately. Based on the initial discussions with DSA, DSA informed staff that that it had already set aside funding for a performance audit but that contract was subsequently suspended by DSA. In addition, the Office of State Audits and Evaluation (OSAE), within the Department of Finance, recently concluded a fiscal audit of DSA's Public School Planning, Design, and Construction Review Revolving Fund (the primary funding source for school plan reviews) which required a basic understanding of the program's operation and resources. Therefore, staff notes that using OSAE would be the most efficient approach for obtaining a performance audit in the near term.

Staff Recommendation. (1) APPROVE the proposed budget provisional language with the following amendments: (a) narrow the flexibility provided to DSA, (b) add a performance audit of DSA by the Office of State Audits and

Evaluations, and (c) prohibit DSA from hiring further staff to monitor plan review workload and develop performance metrics for plan review workload until the audit is done; and, (2) ADOPT Supplemental Report Language to establish interim minimum monthly reporting metrics for DSA until such time that the audit is complete and recommendations implemented.

VOTE:

2240

**DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT**

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Enterprise Zone Tax Credit Voucher Application Fee

This request was heard on March 11, 2010, and “held open” pending receipt of additional information and to allow time to further review the LAO proposal.

Background. California currently has 42 Enterprise Zones (EZ) as authorized by the Legislature, targeting economically distressed areas throughout California and providing special incentives designed to encourage business investment and promote the creation of new jobs. Each EZ 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. EZ 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 EZ Program with \$610,000 (fee revenues) and \$510,000 (General Fund). 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 take in 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. 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 Recommendation. Fee revenues, and not the GF, should pay for the administrative costs of the EZ program. Therefore, the LAO recommends: (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, the LAO recommends 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 businesses 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 HCD 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 and give the Legislature the ability to adjust fees in future years in relation to costs.

Staff Comment. Staff concurs with the LAO analysis. Staff also notes that the EZ program will likely require a small "start-up" General Fund loan (up to \$510,000 in 2010-11) to cover program costs until the new fee revenue is realized. This loan would be paid back in three subsequent fiscal years. Staff notes that the Subcommittee may wish to ask HCD how quickly such a fee increase could be implemented and when increased funds would be realized.

Staff Recommendation. APPROVE the LAO recommendation, including a start-up loan of up to \$510,000 General Fund in 2010-11.

VOTE:

Issue 2 – Proposition 1C: Budget Act Appropriations Request (BCP #4)

This request was heard on March 11, 2010, and "held open" to allow further consideration in the late spring when more information would be available on the state's fiscal condition and cashflow outlook.

Governor's Request. The January Governor's Budget requests \$30 million (local assistance) in expenditure authority, \$5 million for Building Equity and Growth in Neighborhoods (BEGIN), and \$25 million for the Housing-Related Parks Program (HRP), from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). The Governor also requests 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 \$1 million (Prop 1C funds) in 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. 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.

The proposed 2009-10 Prop 1C expenditures total \$540 million, including \$40 million for BEGIN, \$10 million for HRP, and \$83 million for AHI.

Staff Comments. Staff does not raise any specific concerns with the allocation of new Prop 1C funds, or extension of authorization for AHI funds. Staff also notes that the state recently completed a bond sale totaling \$4.5 billion; of that sale, \$834 million has been directed at HCD, split roughly two-thirds and one-third, respectively, between existing and new bond funded projects.

Staff Recommendation. APPROVE.

VOTE:

Issue 3 – April Finance Letter: Proposition 1C 2009-10 Budget Act Reappropriation (FL #4)
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Governor's Request. The Governor requests reappropriation of up to \$40 million of any unencumbered balance in local assistance funding authorized in the 2009 Budget Act, plus an additional year for the liquidation period (to June 30, 2015) in the Building Equity and Growth in Neighborhoods (BEGIN) program.

Background. In December of 2008, due to issues with the ability of the state to sell bonds, the Department of Finance froze all expenditures of General Obligation bond proceeds. Because of this, HCD may not be able to issue a

Notification of Funding Availability (NOFA) before June 30, 2010. As such, this request is necessary to allow HCD to move forward with expenditure of these funds as soon as bond funding is available.

Staff Comment. Similar to the prior item, which also pertains to expenditure of Prop 1C bond funds, staff notes no concern with this Finance Letter.

Staff Recommendation. APPROVE.

VOTE:

Issue 4 – Proposition 1C Extensions: Infill Incentive Grant and Transit-Oriented Development programs

Background. Similar to Issues 2 and 3 above, concerns have been raised that allocations made under the Proposition 1C Infill Incentive Grant Program (IIG) and Transit-Oriented Development (TOD) programs might also be facing unusual circumstances that may merit consideration of an extension of the liquidation period for those funds.

Specifically, IIG and TOD program projects typically begin construction with the assistance of construction loans, along with the use of a multitude of funding sources. In the current financial market, projects are having difficulty finding banks that are willing to offer construction loans. With various sources of funds being held up, including bond funds that have been obstructed by the freeze on bond expenditures from the Pooled Money Investment Fund, banks no longer consider it a certainty that the project will have the funding available to re-pay the loan when necessary. An additional problem is that some of these IIG and TOD program projects were planning to utilize Redevelopment Agency funds to fund part of their project. As part of the 2009 budget, the Legislature redirected approximately \$2 billion of Redevelopment Agency funds toward other purposes. There is the potential for projects to lose those funds, or have them significantly delayed because of that action.

Staff Comment. Due to the combination of these factors, it has been proposed that the Legislature grant a three year extension of the liquidation period available for IIG and TOD funds allocated in the 2007, 2008, and 2009 Budget Acts.

Staff Recommendation. APPROVE three year extension of the liquidation period available for IIG and TOD funds allocated in the 2007, 2008, and 2009 Budget Acts.

VOTE:

Issue 5 – April Finance Letter: Community Development Block Grant – Disaster Recovery Initiative (FL #3)

Governor’s Request. The Governor requests an increase in expenditure authority of \$39.532 million (Federal Trust Fund) and redirection of three existing vacant positions for a period of four years to administer the Community Development Block Grant, Disaster Recovery Initiative (DRI). Of that amount, \$38.346 million is proposed for local assistance funding (including \$791,000 for local jurisdiction administrative costs), \$276,000 for state operations costs in 2010-11, and \$910,000 to support out year state operations costs through, and including, 2013-14.

Background. In September of 2008, Congress appropriated over \$6 billion in supplemental funding for "necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, housing and economic revitalization in areas affected by hurricane, floods, and other natural disasters occurring in 2008." On June 10, 2009, the US Housing and Urban Development department (HUD) announced the allocation of \$3.7 billion in disaster aid, including \$39.5 million for California to provide relief for those whose property was damaged by the wildfires that plagued California in 2008. More specifically, the following counties are eligible: Butte, Kern, Los Angeles, Mariposa, Mendocino, Monterey, Orange, Plumas, Riverside, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity. Additionally, the Hoopa Valley Native American Indian Tribe and the Yurok Native American Indian Tribe of the Yurok Reservation are also eligible entities.

HCD was required to submit an Action Plan by December 2009, which was subsequently approved by HUD in January 2010. HCD's planned use for the local assistance funds are: (1) \$18 million for housing, infrastructure, economic recovery and revitalization; (2) \$15 million for the development of forward-thinking strategies including, land use planning such as Safety Elements of General Plans and Local Hazard Mitigation Plans, disaster-resistant building codes, buyouts of properties in critical fire hazard areas, Individual Mitigation Measures, and other smart strategies incorporated into recovery activities; (3) \$4.5 million for affordable rental housing activities; and, (4) \$2 million for general oversight costs.

HCD has administered funds through this program before, and plans to use its existing structure in order to expedite delivery as well as simplify the process. Funds will be awarded on a first-come first-served basis for all applicants meeting the minimum thresholds. The Program has set deadlines for: (1) releasing the Notification of Fund Availability application on May 17, 2010; (2) accepting applications beginning July 6, 2010; and, (3) making award announcements in July / August 2010.

Staff Comment. HCD has previously administered the DRI, most recently in 2005; therefore, processes are in place to administer the program and issue awards quickly and efficiently. There is also the potential for the state to be awarded additional federal funds, totaling \$15 million, under the “forward thinking strategies” category noted above. Should this opportunity prove feasible, HCD will prepare an amendment to the state’s Action Plan by June 30, 2010. If the Amended Action Plan is approved by the federal government, HCD would prepare a request pursuant to Control Section 28, to be submitted to the Joint Legislative Budget Committee, for expenditure authority.

Staff Recommendation. APPROVE.

VOTE:

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 13, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultants: Brian Brown and Kris Kuzmich

“OPEN ISSUES” HEARING

OUTCOMES

Item Number and Title

- 0250 Judicial Branch
 - 0502 Office of the State Chief Information Officer
 - 0820 Department of Justice
 - 1760 Department of General Services
 - 2240 Department of Housing and Community Development
 - 8380 Department of Personnel Administration
 - 8790 California Commission on Disability Access
 - 8830 California Law Revision Commission
 - 8840 Commission on Uniform State Laws
 - 8940 Military Department
 - 8955 Department of Veterans Affairs
- Proposed Capital Outlay Trailer Bill Language
- CS 31.00 Budget Act Administrative Procedures for Salaries and Wages

(Please see detailed agendas on pages 2 thru 4 for a specific listing of issues)

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	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Office of the State Chief Information Officer (0520)				
1	California Child Support Automation System Migration Project	\$6,024,000	Technology Services Revolving Fund	APPROVE
2	Distributed Administration for Public Safety Communications Department	\$2,061,000	Technology Services Revolving Fund	APPROVE
3	Homeland Security Grant Program	\$4,700,000	Reimbursements	APPROVE
4	Sacramento Public Safety Communications Decentralization Project	\$3,210,000	Variety of bond and special funds	APPROVE
Department of General Services (1760)				
1	Building Standards Commission Workload Augmentation and Green Building Education	\$386,000	Building Standards Administration Service Revolving Fund	APPROVE
2	Public Safety Communications Department Indirect Cost	(-) \$2,061,000	Service Revolving Fund	APPROVE
3	Library and Courts Building Renovation and Deuel Vocational Institute, Tracy, Hospital Building Structural Retrofit	Library: \$59,645,000 Deuel: \$3,740,000	<u>Library</u> : Lease Revenue Bonds <u>Deuel</u> : Earthquake Safety and Public Building Rehabilitation	APPROVE
4	Office Buildings 8 and 9, and Office Building 10 Renovation Projects Extension of Liquidation Periods	Buildings 8 and 9: \$17,274,000 Building 10: \$569,000	Lease Revenue Bonds	APPROVE
5	Sacramento Public Safety Communications Decentralization Project Savings Reversion	(-) \$1,508,000	Variety of bond and special funds	APPROVE

Issues Proposed for Vote Only, Continued (Page 2 of 3):

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Department of Housing and Community Development (2240)				
1	Green Building Standards Education and Outreach	\$108,000	Building Standards Administration Service Revolving Fund	APPROVE
2	American Recovery and Reinvestment Act Position Authority	\$612,000	Federal Trust Fund	APPROVE
3	Housing Choice Voucher Program – Mariposa County Expansion	\$864,000	Federal Trust Fund	APPROVE
Department of Personnel Administration (8380)				
1	21st Century Project	\$278,000	Reimbursements	APPROVE
California Commission on Disability Access (8790)				
1	Disability Access Laws	\$500,000	General Fund	APPROVE
Military Department (8940)				
1	State Active Duty Employee Compensation Increase	\$1,350,000	\$698,000 General Fund; \$652,000 Federal Trust Fund	APPROVE
Department of Veterans Affairs (8955)				
1	Northern California Veterans Cemetery Expansion Project	\$1,124,000	Federal funds	APPROVE
Proposed Capital Outlay Trailer Bill Language				
1	Statewide Minor Capital Outlay Project Limit Update	n/a	n/a	DENY
Control Section 31.00				
1	Administratively Established Positions	n/a	n/a	APPROVE
Judicial Branch (0250)				
1	Proposed Trailer Bill Language: Parking Penalties	n/a	n/a	APPROVE
2	Proposed Trailer Bill Language: Penalty Assessment Adjustments	n/a	n/a	APPROVE

Issues Proposed for Vote Only, Continued (Page 3 of 3):

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Department of Justice (0820)				
1	Western State Information Network	-\$5,994,000 \$5,994,000	Federal Trust Fund Reimbursements	APPROVE
California Law Revision Commission (8830)				
1	Funding shift	-\$666,000 \$666,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year
Commission on Uniform State Laws (8840)				
1	Funding shift	-\$148,000 \$148,000	General Fund Reimbursements	Modify: add BBL to reimburse from Legislative Counsel Bureau for one year

VOTE: "Vote only" agenda approved 3-0 with the exception of the following two items that were approved on a 2-1 vote (Senator Harman voting no): (1) 1760 DGS Issue 1 Building Standards Commission Workload Augmentation and Green Building Education and (2) 2240 HCD Issue 1 Green Building Standards Education and Outreach.

Vote Only Items – Issue Descriptions

Office of the State Chief Information Officer (0502)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – April Finance Letter: California Child Support Automation System Migration Project (Issue 102)

Governor's Request. The Governor requests increased expenditure authority of \$6.024 million (Technology Services Revolving Fund) for the Office of Technology Services (OTech) to re-host the Department of Child Support Services (DCSS) California Child Support Automation System (CCSAS) from a private vendor to OTech before the expiration of the existing hosting service contract in October 2010.

Background. In 2008, DCSS successfully completed the statewide transition of California's 52 county and regional child support agencies to the new single statewide child support automation system. Since the original approval in 2003, the CCSAS project has been planned by DCSS to transition from the external Business Partner to the state. The federal government may also discontinue funds to the state if the CCSAS project is not under state management. The resources in this request are needed for the transition, future funding, and the replacement of outdated equipment. The transition will be phased in over a nine to 12 month period and OTech will enter into an agreement with DCSS and collect the investment in this migration project over time through its rate and cost recovery structure. At its May 6 hearing, Subcommittee No. 3 approved the primary request related to CCSAS, namely continued funding for the system including transitioning it from vendor-provided services to in-house state services.

The April Finance Letter also refers back to Provision 2 from the 2009-10 Fiscal Year for display purposes of current year expenditure and position adjustments related to the CCSAS project.

Staff Recommendation. APPROVE.

Issue 2 – April Finance Letter: Distributed Administration for Public Safety Communications Department (Issue 103)

Background. The Governor requests increased expenditure authority of \$2.061 million (Technology Services Revolving Fund) and nine positions to complete the transfer of indirect services that support the Public Safety Communication Division from the Department of General Services (DGS) to the Office of the State Chief Information Officer (OCIO), as part of the 2009 Governor’s Reorganization Plan No. 1 (GRP 1).

Staff Comment. In approving this request, a conforming action is taken in DGS’s Budget and Item 1760-001-0666, decreasing it by \$2.061 million (Service Revolving Fund) to reflect the transfer of these nine positions from DGS to the OCIO (DGS Issue 2 on Page 12 in this agenda). The net effect of these two April Finance letters is zero total increase in budget authority.

Staff Recommendation. APPROVE.

Issue 3 – April Finance Letter: Homeland Security Grant Program (Issue 101)

Background. The Governor requests increased expenditure authority of \$4.7 million (Reimbursements) to allow the Office of Information Security to receive the \$4.7 million federal grant fund awarded by the Department of Homeland Security through the California Emergency Management Agency. The grant will fund three cyber security projects: (1) State-level Geographic Information Systems Web Services Hosting; (2) State Enterprise Cyber Security Risk Assessment Program; and (3) Secure ca.gov Domain Name System Project. The federal grant funds will be spent over two years beginning in 2010-11.

Staff Comment. These federal grant funds will aid the state in developing a balanced information security program to align the state with the federal .gov domain security objectives. Each grant program will strengthen communication capabilities, information sharing, and collaboration, enhance protection of critical infrastructure and key resources, and improve catastrophic planning, response, and recovery.

Staff Recommendation. APPROVE.

Issue 4 – May Capital Outlay Finance Letter: Sacramento Public Safety Communications Decentralization Project

Governor’s Request. The Governor requests to reappropriate \$3.21 million (variety of bond and special funds) in working drawing funds for the Sacramento Public Safety Communications Decentralization project (Project).

Background. When complete, the Project will relocate critical public safety communications from the top floor of the Resources Building in Sacramento to establish a “communications ring” at various outlying sites in the Northern California region, similar to one established in Southern California, thereby strengthening the viability of the state’s overall Public Safety Communications System in the event of an outage at any one site. Midstream responsibility for this Project shifted from the Department of General Services (DGS) to the OCIO, consistent with the terms of the 2009 Governor’s Reorganization Plan which consolidated information technology (IT) under the OCIO. More specifically, while acquisition and preliminary plan phase funding was provided as part of DGS’s budget in 2007-08 and 2008-09, working drawing phase funding of \$3.21 million was provided in 2009-10 as part of the OCIO’s budget. Future anticipated construction costs are \$9.8237 million (2011-12) utilizing the same variety of bond and special funds, with the exception that an alternative funding source will replace the 1990 Seismic Bonds.

Issue 5 on Page 13 in this agenda discusses DGS’ request to revert \$1.508 million in savings in the acquisition and preliminary plan phases of the Project. Due to the freeze of disbursements on interim financing for bond funded projects, as well as delays encountered during the acquisition phase while the OCIO negotiated the use of one of the key sites on which it plans to construct a telecommunications tower, the OCIO requests to reappropriate the working drawing funds for this project to ensure their availability through June 2011.

Staff Recommendation. APPROVE.

Department of General Services (1760)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – Building Standards Commission Workload Augmentation and Green Building Education (BCPs #1 and #2)

This request was “held open” on March 11, 2010, to allow time for receipt of additional information from the Department of Housing and Community Development and DGS to ensure the departments’ Green Building Standards education and outreach efforts are coordinated in their approach.

Governor’s Request. The January Governor’s Budget requests three redirected positions from the Division of the State Architect and increased expenditure authority of \$350,000 (Building Standards Administration Service Revolving Fund, or 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, education and outreach, and the management of fee revenue.

Background. The Building Standards Commission (BSC) is responsible for administering California’s building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years, 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. 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 2010-11.

Staff Comments. Both HCD and the DGS 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, both residential and commercial, about the new and efficient green building standards. This request was held open to

allow receipt of additional information from HCD and DGS to ensure the education and outreach effort is coordinated in its approach.

Staff Recommendation: APPROVE.

Issue 2 – April Finance Letter: Public Safety Communications Department Indirect Cost

Background. The Governor requests a *reduction* in the DGS Service Revolving Fund Budget of \$2.061 million to reflect the transfer of 9.0 positions from DGS to the Office of the Chief Information Officer (OCIO). These positions provide indirect services to the Telecommunications Division, which was transferred to the OCIO under the 2009 Governor’s Reorganization Plan No. 1.

Staff Comment. This action conforms to OCIO Issue 2 on Page 9 in this agenda. The net effect of these two April Finance letters is zero total increase in budget authority. Staff notes that this request additionally includes technical corrections to the provisional language for DGS to properly allocate the amount for Base Rentals and Fees within their budget. This portion of the request is separate and apart from the adjustment related to the OCIO; the overall dollar impact of the Base Rentals and Fees adjustment is zero.

Staff Recommendation. APPROVE.

Issue 3 – April Finance Letters: Library and Courts Building Renovation and Deuel Vocational Institute, Tracy, Hospital Building Structural Retrofit

Background. The Governor requests re-appropriation of the unencumbered balances for the Library and Courts Building, Sacramento, renovation project (\$59.645 million, lease revenue bonds) and the California Department of Corrections and Rehabilitation Deuel Vocational Institute, Tracy, Hospital Building, structural retrofit project [\$3.740 million, Earthquake Safety and Public Building Rehabilitation (seismic bond) funds]. Due to the freeze of disbursements on interim financing for bond funded projects, both of these projects were suspended temporarily. The projects have resumed, however the corresponding delays make it necessary to re-appropriate the unspent balances of the requested funds to allow Department of General Services to fulfill its responsibilities for the identified projects moving forward.

Staff Recommendation. APPROVE.

Issue 4 – May Capital Outlay Finance Letter: Office Building 8 and 9 and Office Building 10 Renovation Projects Extension of Liquidation Periods (COBCP RA-4 and RA-3, respectively)

Governor’s Request. The Governor requests to extend the liquidation period for the unencumbered balances of appropriations for the construction phases of the Office Building 8, 9, and 10 (OB 8 and 9, and OB 10) Renovation projects. For OB 8 and 9, located at 714 P Street, the amount requested is \$17.274 million (lease revenue bonds). For OB 10, located at 721 Capitol Mall, the amount requested is \$569,000 (lease revenue bonds).

Background. With regard to OB 10, the renovation project is substantially complete, however, some minor construction work related to the floors in the building remain outstanding. As a result, DGS requests a one-year extension, until June 30, 2011, of the liquidation period to complete the project.

With regard to OB 8 and 9, DGS suspended all activities as a result of the Pooled Money Investment Board decision to freeze disbursements on interim financing for bond funded projects. While the OB 8 and 9 project has resumed, the corresponding delays extended the construction completion date to July 23, 2010. In order to achieve LEED certification and complete the warranty phase of the project, availability of funds will be required until June 30, 2012. Therefore, DGS requests a one-year extension, until June 30, 2012, for the remaining funds.

Staff Recommendation. APPROVE.

Issue 5 – May Capital Outlay Finance Letter: Sacramento Public Safety Communications Decentralization Project Savings Reversion

Governor’s Request. The Governor requests to partially revert \$1.508 million (variety of bond and special funds) in savings in the acquisition (\$1.225 million) and preliminary plan (\$283,000) phases of the Sacramento Public Safety Communications Decentralization project (Project).

Background. When complete, the Project will relocate critical public safety communications from the top floor of the Resources Building in Sacramento to establish a “communications ring” at various outlying sites in the Northern California region, similar to one established in Southern California, thereby strengthening the viability of the state’s overall Public Safety Communications System in the event of outage at any one site. The savings result from a change in delivery method from acquisition and development of five sites on which to construct telecommunications towers around the Sacramento area, to a predominant plan to utilize existing state-owned facilities and to lease tower and vault space with limited development required. Acquisition and preliminary plan phase funding was provided as part of DGS’ budget in 2007-08 and 2008-09,

respectively. Working drawing phase funding of \$3.21 million was provided in 2009-10 as part of the Office of the State Chief Information Officer's (OCIO) budget. The OCIO will also submit a corresponding request to reappropriate working drawing funds (also proposed as vote only, Issue 4 on Page 10 in this agenda). Future anticipated construction costs are \$9.8237 million (2011-12) utilizing the same variety of fund sources, with the exception that an alternative funding source will replace the 1990 Seismic Bonds.

Staff Recommendation. APPROVE.

Department of Housing and Community Development (2240)

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issue 1 – Green Building Standards Education and Outreach (BCP #3)

This request was “held open” on March 11, 2010, to allow time for receipt of additional information from the Department of General Services and HCD to ensure the departments’ Green Building Standards education and outreach efforts are coordinated in their approach.

Governor’s Request. The January Governor’s Budget 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 Building Standards Commission (BSC) is responsible for administering California's building codes, including adopting, approving, publishing, and implementing codes and standards. Every three years, 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. 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 2010-11.

Staff Comments. Both HCD and the DGS 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, both residential and commercial, about the new and efficient green building standards. This request was held open to allow receipt of additional information from HCD and DGS to ensure that the education and outreach effort is coordinated in its approach.

Staff Recommendation: APPROVE.

**Issue 2 – American Recovery and Reinvestment Act Position Authority
(BCP #5)**

Governor’s Request. The January Governor’s Budget requests \$612,000 (Federal Trust Fund) and six positions to administer the American Recovery and Reinvestment Act (ARRA) of 2009.

Background. The 2009 Budget Act appropriated \$10.6 million to the Community Development Block Grant Recovery (CDBG-R) and \$44.5 million to the Homelessness Prevention and Rapid Re-Housing Program (HPRP). These funds must be spent as follows: (1) CDBG-R funds must be spent within three years with close-out activities, monitoring, and reporting continuing into 2012-13; and, (2) HPRP funds must be obligated by September 30, 2009, 60 percent expended in 2010-11, and the remaining funds spent within three years or by 2012-13. Contracts will expire on September 30, 2012 and close-out activities, monitoring, and reporting will continue into 2012-13. In 2009-10, HCD handled staffing needs to implement these two programs by redirecting seven vacant positions. ARRA provides administrative funding to administer the programs, hence this request.

Staff Comment. As noted above, all responsibilities related to these two programs will be completed by the end of the 2012-13 fiscal year. In response to a staff inquiry as to why the positions should not be limited to such a term, HCD indicated that these positions may exist only to the extent that federal funds for this purpose remain. At the end of the term of the funds, the positions will inherently be eliminated. By not making them limited term positions, it eliminates the need to re-establish the positions in two years (as required under current law), and allows the positions to remain in place as long as the funding and workload exist. When Assembly Budget Subcommittee No. 4 considered this request, it approved the request but made the positions three-year limited-term. Staff recommends the Subcommittee take a similar conforming action and make the positions three-year limited-term.

Staff Recommendation. APPROVE positions as three-year limited-term.

Issue 3 – April Finance Letter: Housing Choice Voucher Program – Mariposa County Expansion (FL #2)

Governor’s Request. The Governor requests increased expenditure authority of \$543,000 (Federal Trust Funds) for local assistance and \$321,000 (Federal Trust Funds) for state operations costs to administer the 165 monthly vouchers for Mariposa County's Housing Choice Voucher Program, as well as bring current federal expenditure authority up to current federal funding eligibility levels.

Background. HCD currently acts as the Public Housing Authority in 12 rural counties. With 165 monthly housing vouchers, the Mariposa program is the smallest in California. The Mariposa County Housing Authority has determined that it is no longer capable of administering its Housing Choice Voucher Program, and the Mariposa County Board of Supervisors has requested the funding and responsibility for the program to be transferred to HCD. By accepting the transfer of the Mariposa Program, HCD will administer 950, instead of 785, housing vouchers in 13, instead of 12, California counties. HCD has determined that this program is eligible for more funds than Mariposa was drawing down, and requests funds to bring the request up to the maximum amount eligible.

Staff Recommendation. APPROVE.

Department of Personnel Administration (8380)

Department Overview. The Department of Personnel Administration (DPA) is the Governor’s chief personnel policy advisor. The DPA represents the Governor as the “employer” in all matters concerning state employer-employee relations. DPA is responsible for all issues related to salaries, benefits, and position classification. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

Budget Overview. The January Governor’s Budget proposes \$86.9 million (\$10.3 million General Fund) to fund the DPA.

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$85,801,000	\$86,183,000	\$86,939,000
Personnel Years	217.6	246.8	241.1

Issue 1 – April Finance Letter: 21st Century Project

Background. The Governor requests a technical adjustment to the DPA budget item to increase reimbursements by \$278,000 to allow the DPA to continue as an active participant in the 21st Century Project. 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. This amendment conforms to changes made in the State Controller’s Office budget during the fall process.

Staff Recommendation. APPROVE.

California Commission on Disability Access (8790)

Department Overview. Chapter 549, Statutes of 2008 (SB 1608) established the Commission on Disability Access (Commission), a 17-member independent body consisting of 11 public members and six ex officio nonvoting members. The stated goal of the Commission is promoting better compliance with the Americans with Disability Act (ADA). The Commission is intended to act as an information center on disability access compliance, conduct various studies, compile reports regarding compliance, inspection programs, training, and continuing education requirements, create a master compliance checklist for use by building inspectors, and evaluate the success of code sections intended to reduce unnecessary civil actions.

Budget Overview. The Commission was created on January 1, 2009. The 2008-09 Budget appropriated \$80,000 to the Commission, but due to delays in appointing the Commissioners, that funding was carried over to 2009-10. The Commission indicates that it will expend the full \$80,000 in the current budget year.

	2008-09 (actual)	2009-10 (estimated)	2010-11 (proposed)
Expenditures	\$0	\$80,000	\$500,000
Personnel Years	0	0	3

Issue 1 – April Finance Letter: Disability Access Laws (FL BCP-1)

Governor’s Budget Request. The Governor requests \$500,000 (General Fund) and three staff positions to begin meeting the requirements of Chapter 549, Statutes of 2008 (SB 1608), as outlined above. The request is a “phased-in” approach that will allow the Commission to begin fulfilling its statutory requirements, but does not fully fund the Commission.

Staff Comment. This request is in line with the cost estimates provided for SB 1608 when it was pending before the Legislature, which estimated annual General Fund costs for the Commission of around \$600,000 to \$800,000 with a five person staff.

Staff Recommendation. APPROVE.

Military Department (8940)

This Department was heard on March 25, 2010; please see that agenda for department and budget overview information.

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

Governor's Request. The Governor's January Budget requests a baseline augmentation of \$1,454,000 (\$760,000 General Fund and \$694,000 Federal Trust Fund) to cover the estimated State Active Duty (SAD) employee compensation increases to be granted effective January 1, 2010 and estimated to be granted January 1, 2011.

Staff Comment. The Subcommittee heard and approved this request at its March 25, 2010, hearing. However, following that action, the federal adjustment for July 1, 2010, to June 30, 2011, was updated. The new estimate is \$1.35 million, a difference of \$104,000, which necessitates this request being reopened and adjusted down to reflect the updated federal adjustment.

Staff Recommendation. RE-APPROVE request with a technical adjustment of (-)\$104,000 [(-)\$62,000 GF and (-)\$42,000 Federal Trust Fund] reflective of an updated estimate of \$1.35 million for SAD Employee Compensation increases.

Department of Veterans Affairs (8955)

This Department was heard on March 25, 2010; please see that agenda for department and budget overview information.

Issue 1 – May Capital Outlay Finance Letter: Northern California Veterans Cemetery Expansion Project

Governor's Request. The Governor requests a technical funding adjustment of \$1.124 million (federal funds) to satisfy the new scope change associated with the Northern California Veterans Cemetery Expansion Project (Project).

Background. Working drawings and construction for the Project were appropriated in 2009-10 for a scope change adding an additional 1,200 columbarium niches (walls with niches for interring cremated remains). Since that time, the U.S. Department of Veterans Affairs approved a larger Project to instead fund 2,000 columbarium niches. This request seeks a funding adjustment to satisfy the additional scope change and revert the 2009-10 appropriations for working drawings and construction and appropriating in 2010-11, including the additional federal funds.

Staff Recommendation. APPROVE.

Proposed Capital Outlay Trailer Bill Language: Statewide Minor Capital Outlay Project Limit Update

Governor's Request. The January Governor's Budget requests proposed trailer bill language to update the project limit for statewide minor capital outlay from the current level of \$400,000 to \$800,000 and require the Department of Finance to adjust the minor capital outlay project limit every two years to reflect the percentage change in the annual California Construction Index.

Background. Statewide capital outlay projects are budgeted as either major or minor projects. Major capital outlay projects are those with a total cost exceeding \$400,000. Each major capital outlay project is budgeted to an agency as a separate line item and in one or more phases; i.e., land acquisition, preliminary plans, working drawings, construction, and equipment. With the exception of some state agencies that have delegated authority, major capital outlay projects are administered by the Department of General Services (DGS) on behalf of the various state agencies. Minor capital outlay projects are those with total costs of \$400,000 or less, and are typically budgeted in a lump sum appropriation to the state agency. For example, in 2009-10, the California Department of Corrections and Rehabilitation minor capital outlay appropriation totaled \$3.9 million. In general, state departments can contract directly for minor capital outlay projects without using DGS management services. The \$400,000 limit for minor capital outlay was established in statute in 2001 and had not been updated since that time.

Staff Comment. Staff notes that this proposed trailer bill language is also being pursued in the policy process in AB 2181 (Hagman). AB 2181 passed the Assembly Appropriations Committee on May 5 and is pending further action on the Assembly Floor.

Staff Recommendation. Without prejudice, DENY the proposed trailer bill language pertaining to statewide minor capital outlay project limit and defer to AB 2181 in the policy process.

Control Section 31.00 – Budget Act Administrative Procedures for Salaries and Wages

Background. Authorized positions may be established as individual positions or as blanket authorizations (seasonal, temporary help, and overtime). Generally speaking, positions administratively established in the previous year may not be reestablished as workload adjustments in the following year. If an administratively authorized position has been established and has been paid from blanket funds, the position will terminate on June 30 of the current year. However, the position may be reestablished upon approval of the Department of Finance, provided it is included in the budget being submitted to the Legislature and that it does not result in the establishment of positions deleted by the Legislature. Control Section 31.00 of the annual Budget Act formally establishes these restrictions on administratively established positions.

Staff Comment. The Legislature has historically included Control Section 31.00 in the budget in recognition of the fact that situations change throughout the year and the Administration needs some flexibility to meet program and staffing needs. However, circumstances have arisen that have drawn into question the practices of some departments with regard to the rules in Control Section 31.00.

Staff Recommendation. To ensure that the Legislature is properly informed about the use of Control Section 31.00, APPROVE adding the following language to Control Section 31.00:

"(g) Requests to continue administratively-established positions as ongoing positions pursuant to (d) (1) and (2) shall include information on the date the positions were administratively established. This information should be included in the Administration's budget change proposals and finance letters. If the Administration requests to establish new positions in 2011-12, and subsequently decides to administratively establish the positions in 2010-11, the Department of Finance will notify the Legislature within 30 days of the administrative establishment of the positions."

Judicial Branch (0250)

Issue 1 – Proposed Trailer Bill Language: Parking Penalties

Background. 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 Administrative Office of the Courts (AOC) and the California State Association of Counties (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.

Staff Recommendation. APPROVE.

Issue 2 – Proposed Trailer Bill Language: Plumas and Sutter County Penalty Assessment Adjustments

Background. 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 courthouse construction funds. The AOC notes that the amount identified for Plumas County incorrectly states that the surcharge is \$5 when it should read \$7. Similarly, the amount identified for Sutter County is \$3 when it should read \$6. The AOC notes that Plumas County has otherwise been authorized to collect \$7 for this purpose since 1992.

Staff Recommendation. APPROVE.

Department of Justice (0820)

Issue 1 – Western States Information Network

Background. The department requests a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of \$5,994,000. The DOJ has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. This change necessitates the proposed technical adjustment to fund this program through reimbursement authority instead of federal funds.

Staff Recommendation. APPROVE.

California Law Revision Commission (8830)

Issue 1 – Funding Shift

Background. The Governor's budget proposes to shift General Fund support of \$666,000 for the CLRC to reimbursement from the Legislature's budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11.

Staff Recommendation. Staff recommends modification of the Governor's proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

Commission on Uniform State Laws (8840)

Issue 1 – Funding Shift

Background. The Governor’s budget proposes to shift General Fund support of \$148,000 for the CLRC to reimbursement from the Legislature’s budget. The Legislative Counsel has agreed to adoption of budget bill language which would absorb the General Fund budget costs for the California Law Revision Commission in 2010-11.

Staff Recommendation. Staff recommends modification of the Governor’s proposal by funding the CLRC General Fund costs from reimbursements from the General Fund budget of the Legislative Counsel Bureau instead of the Legislature. Further, staff recommends making this action for the 2010-11 budget year only and adopting the following budget bill language:

For the 2010-11 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

DEPARTMENT OF JUSTICE (0820)

Department 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.

Issues Proposed for Discussion / Vote:

Issue 1 – Gun Show Program Augmentation

Background. In 2000-01, DOJ received funding to establish an enforcement team for purposes of preventing sales of illegal firearms and ammunition by monitoring and investigating buyers and sellers participating in gun shows throughout California. This program currently has four agents assigned to it.

Governor's Budget. 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 Dealers' Record of Sales (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.

	2010-11
General Fund	-\$616,000
Dealer Record of Sale Account	\$801,000
PY's	0.9

Staff Comment. The DOJ reports that there are approximately 97 gun shows in California annually, ranging in size from 150 tables (vendors) to 5,300 tables per show. The department further reports that it has reduced its staffing of this program by 40 percent in recent years due to budget cuts. The proposed shift of the program from the General Fund to the DROS Account would result in General Fund savings of \$616,000. The Department of Finance projects the DROS Account to have a healthy fund balance of \$17.9 million at the end of the budget year, suggesting that the fund is fully capable of absorbing these additional costs.

Staff Recommendation. APPROVE.

VOTE: 1-1. Senator Harman voting no, Senator Negrete McLeod abstaining.

0502	OFFICE OF THE STATE CHIEF INFORMATION OFFICER
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This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Review of the California Court Case Management System – Oversight Issue
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Background. In budget trailer bill language (SBx4 13, Chapter 22, Statutes of 2009), the Legislature required that the OCIO review and make recommendations regarding the Judicial Branch’s implementation of the California Court Case Management System (CCMS). The OCIO released its report in April.

Description of CCMS. In an effort to consolidate case management systems within the courts and increase the ability to share data statewide among the Administrative Office of the Courts (AOC), local superior courts, and state and local justice partners (e.g., the Department of Justice, the Department of Social Services, and local law enforcement agencies) the CCMS project was initiated in early 2002. The CCMS is a custom software development project that was developed in iterative phases, with the intent being that lessons learned from each phase would assist in the planning of the next phase.

CCMS V2 – The first phase product was scoped to include case management activities for traffic and criminal functions within the courts. The development of the V2 product was challenged and was ultimately only implemented in Fresno County in July of 2006.

CCMS V3 – The second phase product was scoped to include case management activities for civil, probate, small claims, and mental health functions within the courts. Different parts of the V3 product are currently deployed in six counties, including: Los Angeles, Orange, Sacramento, San Diego, San Joaquin, and Ventura. These installations represent approximately 25 percent of the state’s court caseload. Three of the installations (Los Angeles, Orange, and San Diego) host their own instances of both the application and the database. The rest of the counties use a shared system hosted at the California Courts Technology Center (CCTC), the AOC’s data center.

CCMS V4 – The third phase product was scoped to include:

- All of the functionality of V2 and V3;
- Family law and juvenile justice case management;

- A public/partner portal;
- A set of standard justice partner data exchanges;
- Integration with document management systems;
- Court interpreter scheduling;
- Court reporter scheduling, and;
- E-Filing.

The V4 product is currently in the integration testing phase. The AOC contracted with Deloitte Consulting for the development of V3 and V4 and most V3 deployment activities.

Current Status of the CCMS Project. The project is formally scheduled for only the development of the V4 product. The project is in the execution phase of the project management lifecycle and the integration testing phase of the System Development Life Cycle. The January 2010 project schedule depicted the project to be on schedule to meet the completion date of September 2010. However, the project team reported in late February that it expects to deviate from the September completion date due to issues discovered during the integration testing. The deviation is expected to be approximately six months to complete the V4 product build, delaying the product completion to April 2011. High level deployment planning for V4 currently calls for a three county pilot including San Diego, Ventura, and San Luis Obispo counties.

The OCIO reports that expenditures on CCMS have been reported as \$386 million through 2008-09. This includes one-time development and ongoing operation costs of deployed versions of V2 and V3, as well as development costs for V4. Total costs are currently estimated to be \$1.3 billion for one-time development, inclusive of V2, V3, and V4, and \$79 million for annual maintenance and operations.

OCIO Recommendation. Below are some of the key recommendations of the OCIO regarding the implementation of CCMS:

- **Governance.** The governance plan for CCMS should be augmented to ensure the commitment of the county superior courts to adopt and use the system. The benefits of the CCMS to the court system as a whole should take priority over the unique needs of individual courts. It is critical that the true needs and concerns of the superior courts are considered and addressed in a timely fashion.
- **Deployment Strategy.** The AOC should fully define, baseline, and document the extent to which the system will be deployed, and the timeline and resource requirements for the entire deployment phase. The AOC should not accept or deploy the V4 system beyond the first county superior court in the pilot phase until it is fully operational and utilizing live data. The CCMS project team should ensure that all system testing

activities and procedures are adhered to and completed in the live environment prior to start of the vendor warranty period.

- **Project Management.** The AOC should enhance the project and contract management resources dedicated to the CCMS project to ensure that the state's interests are being met by the vendor. The AOC should develop a detailed plan for how, and by whom, the system will be supported during the maintenance and operation period. The AOC should adopt a common methodology and tool set for project management across the Judicial Branch.
- **Cost Management.** The Judicial Branch should determine a cost cap for the project based on the value of the system to the Branch as well as to individual courts. The cost management plan and tools should define when projects start and stop, which project costs will be captured to what extent, and easily allows transparency to the projects complete one-time costs, and annual operational costs.
- **Technology Management and Review.** The system should be deployed to the maximum number of courts, and all courts should utilize a common database. The number of permutations of the CCMS application and database should be limited to achieve the maximum benefits to the system, particularly by hosting V4 at a centralized site for all courts, to the extent possible. The AOC should develop a well-governed process for coordinating changes and version control.

The OCIO believes that, despite the challenges to date, the CCMS project can be successfully implemented if the recommendations discussed above are implemented.

Staff Comment. The total development and deployment costs of CCMS (\$1.34 billion) are on par with other major state IT initiatives, including FISCAL (\$1.62 billion) and CCSAS-Child Support Enforcement (\$1.55 billion). To date, the Judicial Branch has funded the project through various special funds and reserves. However, the bulk of the implementation and deployment costs still remain. Moreover, the state has seen past examples of large-scale IT projects that have struggled to be implemented effectively, resulting in even greater costs to taxpayers than originally estimated. Given the magnitude of the costs anticipated, it is critical that the Legislature be comfortable that the courts will ably and successfully implement CCMS.

The Subcommittee may wish to address some of the following questions to the OCIO.

1. Which of your recommendations are most critical for successful implementation of CCMS?

2. What are the project and fiscal risks incurred if the Judicial Branch were to not implement your recommendations?
3. Why have counties that have implemented V2 and V3 had such different experiences regarding the functionality of CCMS?
4. How will the Legislature know going forward the degree to which CCMS is being implemented effectively considering that the OCIO does not maintain ongoing project oversight responsibilities?
5. What are the long-term fiscal and operational benefits of CCMS?
6. What were the issues identified with V4 that are causing the six month delay?

Staff Recommendation. No action (oversight item).

Issue 2 – Technology Services Revolving Fund Trailer Bill Language

This item was originally scheduled to be heard on March 11, 2010; without prejudice it was pulled from that agenda to be heard at a later date.

Governor’s Request. The Governor’s January budget requests trailer bill language to enact statutory changes to continue implementing the 2009 Governor’s Reorganization Plan No. 1 (GRP 1) related to information technology (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” (TSRF). GRP 1 also transferred duties related to the state’s procurement of IT from the Department of Finance, the Department of General Services, and the DTS to the OCIO. The proposed trailer bill language: (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 Comment. 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 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.

Staff Recommendation. APPROVE.

VOTE: APPROVED 3-0

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Office of Public School Construction: Charter Schools Facilities Program (BCP #3)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$242,000 (2006 State School Facilities Funds) and two redirected departmental vacancies to establish best practices within the charter schools and to maintain the current level of service provided to charter schools and other parties associated with the Charter Schools Facilities Program (CSFP), as well as for program improvement.

Background. The CSFP provides charter schools with access to state bond funds. Finalizing a CSFP project is a four- or five-year process during which time the charter schools contact the Office of Public School Construction with questions and to seek further direction. The resources in this request are proposed to be dedicated solely to the workload of the CSFP. Currently the program is only achieving a 47 percent success rate (based on the number of projects that have gone on to complete construction of a new school). The Administration indicates that the positions in this request, funded from the bonds that are designated for construction of charter schools, are intended to increase that success rate, thereby leading to more schools being constructed.

Staff Comment. The most recent voter-approved education bond was Proposition 1D (November 2006), which provided \$10.416 billion for K-12 and higher education facilities. Prop 1D funds are anticipated to be depleted by early summer 2010. As of the March 2010 State Allocation Board meeting, only \$18 million remains for allocation; \$217 million remains for new construction. Given this dwindling balance of school construction bond funds, and the current lack of any plan for a new general obligation bond for school construction to be placed before the voters, the logic of authorizing new positions and increased expenditure authority as presented in this request is unclear to staff. A more prudent course of action would be for this request to be resubmitted when new revenue for school construction has been approved.

Staff Recommendation. DENY BCP#3.

VOTE: No action. Item pulled from agenda.

Issue 2 – Office of Public School Construction: Information Technology (BCP #4)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$120,000 (2006 State School Facilities Funds) and one two-year limited-term position redirected from departmental vacancies to develop, implement, and maintain automated systems necessary for the Office of Public School Construction to administer the School Facility Program and to ensure proper bond accountability.

Staff Comment. Identical to the staff comment on the prior OPSC issue, staff questions the timing of this request in light of the dwindling availability of school construction bond funds. As noted above, the logic of authorizing increased expenditure authority and a new position, even if it is limited-term, is unclear given that current school construction bond funds are anticipated to be depleted this summer and there is a lack of any plan for a new general obligation bond for school facilities to be placed before the voters. Rather, working within existing authorized positions and expenditure authority, OPSC should be able to identify resources to provide for proper bond accountability.

Staff Recommendation. DENY BCP #4.

VOTE: No action. Item pulled from agenda.

Issue 3 – Division of the State Architect Provisional Language

This request was heard on March 11, 2010, and “held open” pending receipt of additional information from the Administration.

Governor’s Request. The January Governor’s Budget 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. When the Subcommittee heard this request on March 11, concerns were raised about whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring. In addition, the Subcommittee questioned DSA about complaints from the field, particularly from K-12 schools, about delays in its plan review process. At that time, DSA testified it would provide regular monthly reporting about its "bin time," which they indicated was now below six weeks. In addition, DSA indicated it was creating a Performance Metrics Unit, which would in turn create a scorecard posted to its website that would provide regular updates about the plan review process, including bin time. Since that hearing, DSA has failed to deliver on the draft performance metrics and scorecard; DSA now indicates that the draft metrics will not be available until July 2010.

Staff Comment. The performance issues with DSA are longstanding and complaints from the field are not new. The Subcommittee wants to see timely review and approval of construction ready school plans, but it has no real way to ascertain if DSA's current process and practice is efficient or effective because this is an entity that has heretofore been off budget. For example, how can the Legislature know that getting the "bin time" under six weeks is a sound practice and approach to workload? Yet, DSA is proposing to build its performance metrics on its current foundation. This calls into question the legitimacy of those performance metrics. Because of these issues, staff notes that the Subcommittee may wish to consider a different and potentially more appropriate next step – to request an independent entity undertake a performance audit of DSA's school plan review process. Then, with that baseline performance review information, the Subcommittee can determine with greater certainty the points where interventions make sense, as well as make necessary work process improvements and determine appropriate staffing levels for DSA.

With regard to the performance audit, staff notes that there is an obvious interest in accelerating the audit to begin in the current year. This is doable because DSA is currently off-budget and continuously appropriated and can therefore use current year funding to begin the audit immediately. Based on the initial discussions with DSA, DSA informed staff that that it had already set aside funding for a performance audit but that contract was subsequently suspended by DSA. In addition, the Office of State Audits and Evaluation (OSAE), within the Department of Finance, recently concluded a fiscal audit of DSA's Public School Planning, Design, and Construction Review Revolving Fund (the primary funding source for school plan reviews) which required a basic understanding of the program's operation and resources. Therefore, staff notes that using OSAE would be the most efficient approach for obtaining a performance audit in the near term.

Staff Recommendation. (1) APPROVE the proposed budget provisional language with the following amendments: (a) narrow the flexibility provided to DSA, (b) add a performance audit of DSA by the Office of State Audits and

Evaluations, and (c) prohibit DSA from hiring further staff to monitor plan review workload and develop performance metrics for plan review workload until the audit is done; and, (2) ADOPT Supplemental Report Language to establish interim minimum monthly reporting metrics for DSA until such time that the audit is complete and recommendations implemented.

VOTE: No action. Item pulled from agenda.

2240

**DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT**

This Department was heard on March 11, 2010; please see that agenda for department and budget overview information.

Issues Proposed for Discussion / Vote:

Issue 1 – Enterprise Zone Tax Credit Voucher Application Fee

This request was heard on March 11, 2010, and “held open” pending receipt of additional information and to allow time to further review the LAO proposal.

Background. California currently has 42 Enterprise Zones (EZ) as authorized by the Legislature, targeting economically distressed areas throughout California and providing special incentives designed to encourage business investment and promote the creation of new jobs. Each EZ 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. EZ 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 EZ Program with \$610,000 (fee revenues) and \$510,000 (General Fund). 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 take in 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. 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 Recommendation. Fee revenues, and not the GF, should pay for the administrative costs of the EZ program. Therefore, the LAO recommends: (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, the LAO recommends 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 businesses 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 HCD 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 and give the Legislature the ability to adjust fees in future years in relation to costs.

Staff Comment. Staff concurs with the LAO analysis. Staff also notes that the EZ program will likely require a small "start-up" General Fund loan (up to \$510,000 in 2010-11) to cover program costs until the new fee revenue is realized. This loan would be paid back in three subsequent fiscal years. Staff notes that the Subcommittee may wish to ask HCD how quickly such a fee increase could be implemented and when increased funds would be realized.

Staff Recommendation. APPROVE the LAO recommendation, including a start-up loan of up to \$510,000 General Fund in 2010-11.

VOTE: APPROVED 3-0

Issue 2 – Proposition 1C: Budget Act Appropriations Request (BCP #4)

This request was heard on March 11, 2010, and "held open" to allow further consideration in the late spring when more information would be available on the state's fiscal condition and cashflow outlook.

Governor's Request. The January Governor's Budget requests \$30 million (local assistance) in expenditure authority, \$5 million for Building Equity and Growth in Neighborhoods (BEGIN), and \$25 million for the Housing-Related Parks Program (HRP), from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). The Governor also requests 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 \$1 million (Prop 1C funds) in 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. 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.

The proposed 2009-10 Prop 1C expenditures total \$540 million, including \$40 million for BEGIN, \$10 million for HRP, and \$83 million for AHI.

Staff Comments. Staff does not raise any specific concerns with the allocation of new Prop 1C funds, or extension of authorization for AHI funds. Staff also notes that the state recently completed a bond sale totaling \$4.5 billion; of that sale, \$834 million has been directed at HCD, split roughly two-thirds and one-third, respectively, between existing and new bond funded projects.

Staff Recommendation. APPROVE.

VOTE: APPROVED 3-0

Issue 3 – April Finance Letter: Proposition 1C 2009-10 Budget Act Reappropriation (FL #4)

Governor's Request. The Governor requests reappropriation of up to \$40 million of any unencumbered balance in local assistance funding authorized in the 2009 Budget Act, plus an additional year for the liquidation period (to June 30, 2015) in the Building Equity and Growth in Neighborhoods (BEGIN) program.

Background. In December of 2008, due to issues with the ability of the state to sell bonds, the Department of Finance froze all expenditures of General Obligation bond proceeds. Because of this, HCD may not be able to issue a

Notification of Funding Availability (NOFA) before June 30, 2010. As such, this request is necessary to allow HCD to move forward with expenditure of these funds as soon as bond funding is available.

Staff Comment. Similar to the prior item, which also pertains to expenditure of Prop 1C bond funds, staff notes no concern with this Finance Letter.

Staff Recommendation. APPROVE.

VOTE: APPROVED 3-0

Issue 4 – Proposition 1C Extensions: Infill Incentive Grant and Transit-Oriented Development programs

Background. Similar to Issues 2 and 3 above, concerns have been raised that allocations made under the Proposition 1C Infill Incentive Grant Program (IIG) and Transit-Oriented Development (TOD) programs might also be facing unusual circumstances that may merit consideration of an extension of the liquidation period for those funds.

Specifically, IIG and TOD program projects typically begin construction with the assistance of construction loans, along with the use of a multitude of funding sources. In the current financial market, projects are having difficulty finding banks that are willing to offer construction loans. With various sources of funds being held up, including bond funds that have been obstructed by the freeze on bond expenditures from the Pooled Money Investment Fund, banks no longer consider it a certainty that the project will have the funding available to re-pay the loan when necessary. An additional problem is that some of these IIG and TOD program projects were planning to utilize Redevelopment Agency funds to fund part of their project. As part of the 2009 budget, the Legislature redirected approximately \$2 billion of Redevelopment Agency funds toward other purposes. There is the potential for projects to lose those funds, or have them significantly delayed because of that action.

Staff Comment. Due to the combination of these factors, it has been proposed that the Legislature grant a three year extension of the liquidation period available for IIG and TOD funds allocated in the 2007, 2008, and 2009 Budget Acts.

Staff Recommendation. APPROVE three year extension of the liquidation period available for IIG and TOD funds allocated in the 2007, 2008, and 2009 Budget Acts.

VOTE: APPROVED 3-0

Issue 5 – April Finance Letter: Community Development Block Grant – Disaster Recovery Initiative (FL #3)

Governor's Request. The Governor requests an increase in expenditure authority of \$39.532 million (Federal Trust Fund) and redirection of three existing vacant positions for a period of four years to administer the Community Development Block Grant, Disaster Recovery Initiative (DRI). Of that amount, \$38.346 million is proposed for local assistance funding (including \$791,000 for local jurisdiction administrative costs), \$276,000 for state operations costs in 2010-11, and \$910,000 to support out year state operations costs through, and including, 2013-14.

Background. In September of 2008, Congress appropriated over \$6 billion in supplemental funding for "necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, housing and economic revitalization in areas affected by hurricane, floods, and other natural disasters occurring in 2008." On June 10, 2009, the US Housing and Urban Development department (HUD) announced the allocation of \$3.7 billion in disaster aid, including \$39.5 million for California to provide relief for those whose property was damaged by the wildfires that plagued California in 2008. More specifically, the following counties are eligible: Butte, Kern, Los Angeles, Mariposa, Mendocino, Monterey, Orange, Plumas, Riverside, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity. Additionally, the Hoopa Valley Native American Indian Tribe and the Yurok Native American Indian Tribe of the Yurok Reservation are also eligible entities.

HCD was required to submit an Action Plan by December 2009, which was subsequently approved by HUD in January 2010. HCD's planned use for the local assistance funds are: (1) \$18 million for housing, infrastructure, economic recovery and revitalization; (2) \$15 million for the development of forward-thinking strategies including, land use planning such as Safety Elements of General Plans and Local Hazard Mitigation Plans, disaster-resistant building codes, buyouts of properties in critical fire hazard areas, Individual Mitigation Measures, and other smart strategies incorporated into recovery activities; (3) \$4.5 million for affordable rental housing activities; and, (4) \$2 million for general oversight costs.

HCD has administered funds through this program before, and plans to use its existing structure in order to expedite delivery as well as simplify the process. Funds will be awarded on a first-come first-served basis for all applicants meeting the minimum thresholds. The Program has set deadlines for: (1) releasing the Notification of Fund Availability application on May 17, 2010; (2) accepting applications beginning July 6, 2010; and, (3) making award announcements in July / August 2010.

Staff Comment. HCD has previously administered the DRI, most recently in 2005; therefore, processes are in place to administer the program and issue awards quickly and efficiently. There is also the potential for the state to be awarded additional federal funds, totaling \$15 million, under the “forward thinking strategies” category noted above. Should this opportunity prove feasible, HCD will prepare an amendment to the state’s Action Plan by June 30, 2010. If the Amended Action Plan is approved by the federal government, HCD would prepare a request pursuant to Control Section 28, to be submitted to the Joint Legislative Budget Committee, for expenditure authority.

Staff Recommendation. APPROVE.

VOTE: APPROVED 3-0

SUBCOMMITTEE NO. 4

Agenda

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



Agenda Part "A"

Wednesday, May 19, 2010
1:30 p.m.
Room 112

Consultant: Brian Annis

Item Number and Title

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Vote Only Items

Special Fund Loans to the General Fund (Various Departments)

Governor’s Request. The Governor’s May Revision requests various new special fund loans to the General Fund and also proposes to extend loan repayment dates for existing special fund loans to the General Fund. These loans and repayment extensions impact a number of departments in the jurisdiction of this Subcommittee. The proposed new loans in 2010-11 total \$70 million and repayment deferrals total \$24 million. Figures 1 and 2 below provide further detail regarding these loans and repayment extensions.

Figure 1 - 2010-11 Special Fund Loans to GF

Department	Fund	Amount	Repayment
Secretary of State	Victims of Fraud Compensation Fund	\$10 million	n/a
California Tax Credit Allocation Committee	Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account	\$25 million	July 15, 2013
California Tax Credit Allocation Committee	Tax Credit Allocation Fee Account	\$25 million	July 15, 2013
Department of Consumer Affairs	Accountancy Fund, Professions and Vocations Fund	\$10 million	June 30, 2012

Figure 2 - 2008 Budget Act Special Fund Loans to GF: Repayment Extensions

Department	Fund	Amount	Extension
California Tax Credit Allocation Committee	Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account	\$10 million	From June 30, 2011 to July 15, 2013
California Tax Credit Allocation Committee	Tax Credit Allocation Fee Account	\$10 million	From June 30, 2011 to July 15, 2013
California Debt and Investment Advisory Committee	California Debt and Investment Advisory Committee Fund	\$2 million	From June 30, 2011 to July 15, 2013
California Debt Limit Allocation Committee	California Debt Limit Allocation Committee Fund	\$2 million	From June 30, 2011 to July 15, 2013

Committee Questions:

1. LAO – Does the Analyst have any concerns with these loans?

Staff Recommendation. Approve the loan requests.

Vote:

Budget Issues for Discussion and/or Vote

California Alternative Energy and Advanced Transportation Financing Authority (0971)

Department Overview: The mission of the California Alternative Energy and Advanced Transportation Financing Authority (Authority) is to promote the prompt and efficient development of energy sources which are renewable or which more efficiently utilize and conserve scarce energy resources.

Budget Overview: The January Governor's Budget proposed total funding of \$204,000 (California Alternative Energy Authority Fund) and 1.0 position, a decrease of \$2,000 and no change in positions.

Issue 1 – Staff Positions to Implement SB 71 – Green Energy Tax Exemption

Budget Request: The Treasurer's Office requests \$1.4 million (via a General Fund loan) and 6.0 new positions to implement the sales and use tax exemption for green energy manufacturing that was established by SB 71 (Chapter 10, Statutes of 2010). The General Fund loan would be repaid no later than June 30, 2013, with program fees.

Staff Comment: With new programs, it is difficult to predict the actual workload that will materialize, because it is unknown how many applications will be received for the tax exemption – here the Authority predicts about 13 successful applicants per year. It is also difficult to evaluate the appropriate staff time per approved application. The Authority indicates that each award of the tax credit could result in up to 15 additional transactions submitted for approval as actual equipment is purchased. When the new Film Tax Credit was implemented last year, the Film Commission was provided 3 new staff. Given the uncertainty with workload, the Subcommittee may want to consider fewer positions – four positions instead of six. This would staff in excess of the Film Commission positions for that new credit. Once the Authority has actual data on applicants, transactions, and workload per activity in hours, a request for a future staffing adjustment could be considered without prejudice to this year's action.

LAO Recommendation: Due to the current fiscal stress on the General Fund, the LAO recommends that the loan be made by an alternative funding source - the Renewable Resource Trust Fund (RRTF). The RRTF has a healthy balance and can sustain a loan of this magnitude without adverse programmatic impacts on programs supported by the RRTF. Additionally, we recommend that the repayment terms in the BCP be maintained.

Staff Recommendation: (1) Approve 4.0 new staff instead of 6.0; (2) approve the LAO's recommendation to use the Renewable Resource Trust Fund for the loan instead of the General Fund; and (3) reduce the loan amount to conform to (1).

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 U.S. 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 issue was heard in the Subcommittee on April 29, 2010, and left open for further review. This backfill is associated with a state/local healthcare realignment implemented in 1991. The realignment involved local governments assuming certain healthcare responsibilities from the State in exchange for certain revenues (a specified percentage of Vehicle License Fee and sales tax revenues) to support those programs. Local realignment revenue fluctuates with the economy and is also affected by changes to state tax policy, such as a new sales tax exemption.

LAO Recommendation: The Analyst recommends approval of the budget request. The LAO indicates that the State has been backfilling for lost revenue related to conformity to the North American International Registration Plan for commercial vehicles since 2000. However, like new sales tax exemptions that change the tax base for sales tax realignment revenues, the backfill is not required as a condition of realignment.

Staff Recommendation: Approve the request.

Vote:

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.

Full Committee Hearings the Week of May 24: The Full Budget Committee will hear and act on certain budget proposals the week of May 24. Generally, the issues held open in Subcommittee to be determined in the Full Budget Committee are those that have a larger General Fund impact and/or are crosscutting in subject matter, or would otherwise benefit from discussion in the Full Budget Committee. The May Revision request to suspend the "Handicapped and Disabled Student I & II, and Seriously Emotional Disabled Pupils (AB 3632)" mandate is considered to be a candidate for Full Committee action due to its high cost (\$131 million General Fund) and its cross-cutting nature with education and mental health issues. It is not included as an issue in this Subcommittee agenda.

Issue 1 –Mandate Reimbursement Process I and II

Budget Issue: In the May Revision, the Administration requests to suspend two mandates – the Mandate Reimbursement Process (MRP) and the Mandate Reimbursement Process II (MRP II). The Administration estimates the following savings from the suspension of these mandates (dollars in millions):

	2010-11 cost of Reimbursement for prior years	2012-13 State cost of reimbursement for 2010-11 local activities.
Mandate Reimbursement Process	\$0	\$20.0
Mandate Reimbursement Process II	\$0	?
TOTAL	\$0	\$20.0

As the table indicates, the suspension of these mandates would not result in a 2010-11 budget cost savings, but by suspending the mandates, it would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget.

Issue Background: These mandates establish the process by which local agencies receive reimbursement for state-mandated programs. The statutes prescribe the procedures that must be followed by the claimants to file a claim with the State Mandates Commission. The first mandate, MRP, dates back to a 1986 determination, and the second mandate, MRP II, dates back to 2005 legislation. Both mandates have been litigated recently and due to that litigation and other factors the Commission’s adoption of parameters and guidelines for MRP II is still pending and the actual cost of the reimbursement is unknown. The MRP mandate has been suspended in the past, most recently in 2008-09. However, the mandate was not suspended in 2009-10 or requested for suspension in the January Governor’s Budget. A 2009 court ruling directed the Commission to reinstate the MRP mandate and reconsider the original determination for MRP II.

Staff Comment: The Department of Finance recommends the Legislature suspend the MRP and MRPII mandates for one year to allow the Administration to do a thorough review of the reimbursement claims submitted to the Controller in May 2010 for the purpose of gathering cost data from the claims.

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: Approve the May Finance Letter.

Vote:

Issue 2 – Open Meeting / Brown Act Mandate

Budget Issue: In the May Revision, the Administration requests to suspend the Open Meeting / Brown Act mandate, which requires posting of agendas and other public access for local government meetings. The Administration estimates the following savings from the suspension of these mandates (dollars in millions):

	2010-11 cost of Reimbursement for prior years	2012-13 State cost of reimbursement for 2010-11 local activities.
Open Meeting / Brown Act	\$0.4	\$16.5

As the table indicates, the suspension of these mandates would result in a small 2010-11 budget cost, but by suspending the mandate, it would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget.

Issue Background: This mandate was also involved in litigation. Proposition 59 of 2004 enacted certain open meeting requirements on local governments. In AB 138 (Chapter 72, Statutes of 2005), the Legislature asked the Commission to reevaluation the Open Meeting / Brown Act reimbursement requirements in light of Proposition 59. The Commission complied and found the state no longer had a reimbursement obligation. However, litigation resulted in the Court ordering reinstatement of the reimbursements on process issues. (Note, Issue #4 in this agenda is a suggested remedy to address the courts process issues, which have to do with the separation of powers and the AB 138 direction from the Legislature to the Commission).

LAO Recommendation: The Analyst recommends another approach to remove the state’s reimbursement obligation by using the provisions of Proposition 59. Specifically, the LAO recommends the Legislature modify current law to make provisions “best practices” for compliance with Proposition 59 (2004).

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 this issue 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.

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. The Administration also requested trailer bill language in the Human Services area to make the advisory committees optional.

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 addition 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: Approve the \$475,000 General Fund augmentation and do not suspend the mandate. Take no action on the Administration's trailer bill, which is in the purview of Subcommittee 3.

Vote:

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. This issue was heard at the April 29 hearing and left open for further review.

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 determinative role in a redetermination, but may indicate legislative intent, 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 the changes made to the draft trailer bill since the last hearing?

Recommendation: Approve placeholder trailer bill language.

Vote:

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 **for that test claim decision** 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 **requires** 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

1 impose new state-mandated activities and require a finding pursuant to Section
2 17551, Subdivision (a).

3 (c) A request to adopt a new test claim decision pursuant to this section may be filed by a
4 local agency or school district, statewide association of local agencies or school districts,
5 or the Department of Finance, Controller or other affected state agency.

6 (d) The commission shall adopt procedures for receiving requests to adopt a new test claim
7 decision pursuant to this section and for providing notice and a hearing on those requests.
8 The procedures shall do all of the following:

9 (1) Specify that all requests for adoption of a new test claim decision shall be filed on
10 a form prescribed by the commission that shall contain at least the following
11 elements and documents:

12 (a) The name, case number, and adoption date of the prior test claim decision.

13 (b) A detailed analysis of how and why the state's liability for mandate
14 reimbursement pursuant to Article XIII B, Section 6 of the California
15 Constitution and Sections 17514 and 17556 has been modified.

16 (c) The actual or estimated amount of the annual statewide change in the
17 state's liability for mandate reimbursement pursuant to Article XIII B,
18 Section 6 of the California Constitution and Sections 17514 and
19 17556.

20 (d) Identification of all of the following, if relevant:

- 21 1. Dedicated state funds appropriated for this program
- 22 2. Dedicated federal funds appropriated for this program
- 23 3. Fee authority to offset the costs of this program
- 24 4. Federal law
- 25 5. Court Decision
- 26 6. State or local ballot measure and date of election

27 (e) All assertions of fact shall be supported with declarations under penalty of
28 perjury, based on the declarant's personal knowledge, information or
29 belief, and be signed by persons who are authorized and competent to
30 do so, as follows:

- 1 1. Declarations of actual or estimated annual statewide costs that will
- 2 or will not be incurred to implement the alleged mandate.
- 3 2. Declarations identifying all local, state, or federal funds, or fee
- 4 authority that may or may not be used to offset the increased costs
- 5 that will or will not be incurred by claimants to implement the
- 6 alleged mandate or result in a finding of no costs mandated by the
- 7 state pursuant to Section 17556.
- 8 3. Declarations describing new activities performed to implement
- 9 specific provisions of the test claim statute or executive order
- 10 alleged to impose a reimbursable state-mandated program.
- 11 4. Specific references shall be made to chapters, articles, sections, or
- 12 page numbers alleged to impose a reimbursable state-mandated
- 13 program.
- 14 (2) A request for adoption of a new test claim decision shall be signed at the end of
- 15 the document, under penalty of perjury by the requestor or its authorized
- 16 representative, with the declaration that the request is true and complete to the
- 17 best of the declarant’s personal knowledge, information, or belief. The date of
- 18 signing, the declarant’s title, address, telephone number, facsimile machine
- 19 telephone number, and electronic mail address shall be included.
- 20 (3) If a completed request is not received by the commission within 30 calendar days
- 21 from the date an incomplete request was returned by the commission, the
- 22 original filing date may be disallowed.
- 23 (4) Establish a two-step hearing process to consider requests for adoption of a new
- 24 test claim decision pursuant to this section. Before the commission considers
- 25 a request for adoption of a new test claim decision, a hearing shall be
- 26 conducted to determine if the requestor has made a showing that the state’s
- 27 liability pursuant to Article XIII B, Section 6, subdivision (a) of the California
- 28 Constitution and Sections 17514 and 17556 of the Government Code has been
- 29 modified based on a subsequent change in law. If the commission determines
- 30 that the requestor has made this showing pursuant to subdivision (a), it shall

1 notice the request for hearing and to determine if a new test claim decision
2 shall be adopted to supersede one previously adopted.

3 (5) Provide for presentation of evidence and legal argument by the requestor,
4 interested parties, the Department of Finance, any other affected state agency,
5 and interested person.

6 (6) Permit a hearing to be postponed at the request of any party, without prejudice,
7 until the next scheduled hearing.

8 (e) A request for adoption of a new test claim decision shall be filed on or before June 30
9 following a fiscal year in order to establish eligibility for reimbursement or loss of
10 reimbursement for that fiscal year.¹

11 (f) Upon receipt of a complete request for adoption of a new test claim decision, the
12 commission shall notify interested parties, the State Controller, Department of Finance,
13 affected state agencies, and the Legislative Analyst.

14 (g) If the commission determines that the requestor has made a showing that the state's
15 liability pursuant to Article XIII B, Section 6, subdivision (a) of the California
16 Constitution and Sections 17514 and 17556 of the Government Code has been modified
17 based on a subsequent change in law, the State Controller shall notify eligible claimants
18 that the request has been filed with the commission and that the original test claim
19 decision may be superseded by a new decision adopted by the commission. Such
20 notification may be included in the next set of claiming instructions issued to eligible
21 claimants.

22 (h) If the commission adopts a new test claim decision that supersedes the one previously
23 adopted and shows that the state's liability for mandate reimbursement pursuant to
24 Article XIII B, Section 6 of the California Constitution and Sections 17514 and 17556
25 has been modified, the commission shall adopt new parameters and guidelines or amend
26 existing parameters and guidelines or reasonable reimbursement methodology pursuant to
27 Sections 17557, 17557.1-17557.2.

28 (i) Any new parameters and guidelines adopted or amendments made to existing parameters
29 and guidelines or reasonable reimbursement methodology shall conform to the new test
30 claim decision adopted by the commission.

¹ This language is consistent with Government Code section 17557, subdivision (e).

1 (j) The State Controller shall follow the procedures in Sections 17558, 17558.5, 17560,
2 17561, and 17561.5, as applicable to the new test claim decision adopted by the
3 commission pursuant to this section.

4 (k) If the commission adopts a new test claim decision which will result in reimbursement
5 pursuant to Article XIII B, Section 6 of the California Constitution and Sections 17514
6 and 17556, it shall determine the amount to be subvended to local agencies and school
7 districts by adopting a new statewide cost estimate pursuant to Section 17557.

8 (l) The commission shall notify the Legislature pursuant to Section 17555 within 30 days of
9 adopting a new test claim decision pursuant to this section, and report to the Legislature
10 pursuant to Sections 17600 and 17601.

11 **SECTION 2**

12 **ADD NEW SECTION 17570.1 TO READ:**

13 As part of its review and consideration pursuant to Sections 17581 and 17581.5, the
14 Legislature may, through statute, request that the Department of Finance consider exercising
15 its authority pursuant to Section 17570, subdivision (c).

16 **AMENDMENTS TO EXISTING LAW**

17 **SECTION 3**

18 **AMEND SECTION 17556 OF THE GOVERNMENT CODE TO READ:**

19 § 17556. Findings

20 The commission shall not find costs mandated by the state, as defined in Section 17514, in
21 any claim submitted by a local agency or school district, if, after a hearing, the commission
22 finds any one of the following:

23 (a) The claim is submitted by a local agency or school district that requested legislative
24 authority for that local agency or school district to implement the program specified in
25 the statute, and that statute imposes costs upon that local agency or school district
26 requesting the legislative authority. A resolution from the governing body or a letter from
27 a delegated representative of the governing body of a local agency or school district that
28 requests authorization for that local agency or school district to implement a given

1 program shall constitute a request within the meaning of this subdivision. This
2 subdivision applies regardless of whether the resolution from the governing body or a
3 letter from a delegated representative of the governing body was adopted or sent prior to
4 or after the date on which the state statute or executive order was enacted or issued.

5 (b) The statute or executive order affirmed for the state a mandate that had been declared
6 existing law or regulation by action of the courts. This subdivision applies regardless of
7 whether the action of the courts occurred prior to or after the date on which the state
8 statute or executive was enacted or issued.

9 (c) The statute or executive order imposes a requirement that is mandated by a federal law or
10 regulation and results in costs mandated by the federal government, unless the statute or
11 executive order mandates costs that exceed the mandate in that federal law or regulation.
12 This subdivision applies regardless of whether the federal law or regulation was enacted
13 or adopted prior to or after the date on which the state statute or executive order was
14 enacted or issued.

15 (d) The local agency or school district has the authority to levy service charges, fees, or
16 assessments sufficient to pay for the mandated program or increased level of service.
17 This subdivision applies regardless of whether the charges, fees, or assessment authority
18 was enacted or adopted prior to or after the date on which the state statute or executive
19 order was enacted or issued.

20 (e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for
21 offsetting savings to local agencies or school districts that result in no net costs to the
22 local agencies or school districts, or includes additional revenue that was specifically
23 intended to fund the costs of the state mandate in an amount sufficient to fund the cost of
24 the state mandate. This subdivision applies regardless of whether the (1) offsetting
25 savings that result in no net costs were enacted or adopted prior to or after the date on
26 which the statute or executive order was enacted or issued, or (2) the additional revenue
27 that was specifically intended to fund the costs of the state mandate in an amount
28 sufficient to fund the cost of the state mandate was appropriated before or after the date
29 on which the statute or executive order was enacted or issued.

1 (f) The statute or executive order imposes duties that are necessary to implement, ~~reasonably~~
2 ~~within the scope of~~, or expressly included in, a ballot measure approved by the voters in a
3 statewide or local election. This subdivision applies regardless of whether the statute or
4 executive order was enacted or adopted before or after the date on which the ballot
5 measure was approved by the voters.

6 (g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed
7 the penalty for a crime or infraction, but only for that portion of the statute relating
8 directly to the enforcement of the crime or infraction.

9 **SECTION 4**

10 **AMEND SECTION 17557 OF THE GOVERNMENT CODE TO READ:**

11 (a) If the commission determines there are costs mandated by the state pursuant to Section
12 17551, it shall determine the amount to be subvended to local agencies and school districts
13 for reimbursement. In so doing it shall adopt parameters and guidelines for
14 reimbursement of any claims relating to the statute or executive order. The successful test
15 claimants shall submit proposed parameters and guidelines within 30 days of adoption of
16 a statement of decision on a test claim. The proposed parameters and guidelines may
17 include proposed reimbursable activities that are reasonably necessary for the
18 performance of the state-mandated program. At the request of a successful test claimant,
19 the commission may provide for one or more extensions of this 30-day period at any time
20 prior to its adoption of the parameters and guidelines. If proposed parameters and
21 guidelines are not submitted within the 30-day period and the commission has not
22 granted an extension, then the commission shall notify the test claimant that the amount
23 of reimbursement the test claimant is entitled to for the first 12 months of incurred costs
24 will be reduced by 20 percent, unless the test claimant can demonstrate to the
25 commission why an extension of the 30-day period is justified.

26 (b) In adopting parameters and guidelines, the commission may adopt a reasonable
27 reimbursement methodology.

28 (c) The parameters and guidelines adopted by the commission shall specify the fiscal years
29 for which local agencies and school districts shall be reimbursed for costs incurred.

1 However, the commission may not specify in the parameters and guidelines any fiscal
2 year for which payment could be provided in the annual Budget Act.

3 (d) A local agency, school district, or the state may file a written request with the commission
4 to amend, ~~modify, or supplement the~~ parameters or guidelines. The commission may,
5 after public notice and hearing, amend, ~~modify, or supplement the~~ parameters and
6 guidelines. A parameters and guidelines amendment submitted within 90 days of the
7 claiming deadline for initial claims, as specified in the claiming instructions pursuant to
8 Section 17561, shall apply to all years eligible for reimbursement as defined in the
9 original parameters and guidelines. A parameters and guidelines amendment filed more
10 than 90 days after the claiming deadline for initial claims, as specified in the claiming
11 instructions pursuant to Section 17561, and on or before the claiming deadline following
12 a fiscal year, shall establish reimbursement eligibility for that fiscal year. A request to
13 amend parameters and guidelines may be filed to make any of the following changes to
14 parameters and guidelines:

- 15 (1) Delete any reimbursable activity that is repealed by statute or executive order
16 after the adoption of the original or last amended parameters and guidelines.
- 17 (2) Update offsetting revenues and offsetting savings that apply to the mandated
18 program and do not require a new legal finding that there are “no costs
19 mandated by the state” under Section 17556, Subdivision (e).
- 20 (3) Include a reasonable reimbursement methodology for all or some of the
21 reimbursable activities.
- 22 (4) Clarify reimbursable activities consistent with the original statement of
23 decision.
- 24 (5) Add new reimbursable activities that are reasonably necessary for the
25 performance of the original state-mandated program.
- 26 (6) Define what is not reimbursable consistent with the original statement of
27 decision.
- 28 (7) Consolidate the parameters and guidelines for two or more programs.
- 29 (8) Amend the “boilerplate” language. For purposes of this section, “boilerplate”
30 language is defined as the language in the parameters and guidelines that is

1 not unique to the state-mandated program that is the subject of the parameters
2 and guidelines.

3 (e) A test claim shall be submitted on or before June 30 following a fiscal year in order to
4 establish eligibility for reimbursement for that fiscal year. The claimant may thereafter
5 amend the test claim at any time, but before the test claim is set for a hearing, without
6 affecting the original filing date as long as the amendment substantially relates to the
7 original test claim.

8 (f) In adopting parameters and guidelines, the commission shall consult with the Department
9 of Finance, the affected state agency, the Controller, the fiscal and policy committees of
10 the Assembly and Senate, the Legislative Analyst, and the claimants to consider a
11 reasonable reimbursement methodology that balances accuracy with simplicity.

12

SUBCOMMITTEE NO. 4

Agenda

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



Hearing Outcomes
(Senators in Attendance: DeSaulnier and Negrete McLeod)

Agenda Part "A"

Wednesday, May 19, 2010
1:30 p.m.
Room 112

Consultant: Brian Annis

Item Number and Title

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Vote Only Departments

Various Departments – Loans to the General Fund 1

Departments with issues to be heard

0971	California Alternative Energy and Advanced Transportation Financing Authority	2
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8885	Commission on State Mandates	5
	Updated Draft trailer bill language for Mandate Redetermination	10

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

Special Fund Loans to the General Fund (Various Departments)

Governor’s Request. The Governor’s May Revision requests various new special fund loans to the General Fund and also proposes to extend loan repayment dates for existing special fund loans to the General Fund. These loans and repayment extensions impact a number of departments in the jurisdiction of this Subcommittee. The proposed new loans in 2010-11 total \$70 million and repayment deferrals total \$24 million. Figures 1 and 2 below provide further detail regarding these loans and repayment extensions.

Figure 1 - 2010-11 Special Fund Loans to GF

Department	Fund	Amount	Repayment
Secretary of State	Victims of Fraud Compensation Fund	\$10 million	n/a
California Tax Credit Allocation Committee	Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account	\$25 million	July 15, 2013
California Tax Credit Allocation Committee	Tax Credit Allocation Fee Account	\$25 million	July 15, 2013
Department of Consumer Affairs	Accountancy Fund, Professions and Vocations Fund	\$10 million	June 30, 2012

Figure 2 - 2008 Budget Act Special Fund Loans to GF: Repayment Extensions

Department	Fund	Amount	Extension
California Tax Credit Allocation Committee	Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account	\$10 million	From June 30, 2011 to July 15, 2013
California Tax Credit Allocation Committee	Tax Credit Allocation Fee Account	\$10 million	From June 30, 2011 to July 15, 2013
California Debt and Investment Advisory Committee	California Debt and Investment Advisory Committee Fund	\$2 million	From June 30, 2011 to July 15, 2013
California Debt Limit Allocation Committee	California Debt Limit Allocation Committee Fund	\$2 million	From June 30, 2011 to July 15, 2013

Committee Questions:

1. LAO – Does the Analyst have any concerns with these loans?

Staff Recommendation. Approve the loan requests.

Vote: *Approved loan requests on a 2-0 vote.*

Budget Issues for Discussion and/or Vote

California Alternative Energy and Advanced Transportation Financing Authority (0971)

Department Overview: The mission of the California Alternative Energy and Advanced Transportation Financing Authority (Authority) is to promote the prompt and efficient development of energy sources which are renewable or which more efficiently utilize and conserve scarce energy resources.

Budget Overview: The January Governor's Budget proposed total funding of \$204,000 (California Alternative Energy Authority Fund) and 1.0 position, a decrease of \$2,000 and no change in positions.

Issue 1 – Staff Positions to Implement SB 71 – Green Energy Tax Exemption

Budget Request: The Treasurer's Office requests \$1.4 million (via a General Fund loan) and 6.0 new positions to implement the sales and use tax exemption for green energy manufacturing that was established by SB 71 (Chapter 10, Statutes of 2010). The General Fund loan would be repaid no later than June 30, 2013, with program fees.

Staff Comment: With new programs, it is difficult to predict the actual workload that will materialize, because it is unknown how many applications will be received for the tax exemption – here the Authority predicts about 13 successful applicants per year. It is also difficult to evaluate the appropriate staff time per approved application. The Authority indicates that each award of the tax credit could result in up to 15 additional transactions submitted for approval as actual equipment is purchased. When the new Film Tax Credit was implemented last year, the Film Commission was provided 3 new staff. Given the uncertainty with workload, the Subcommittee may want to consider fewer positions – four positions instead of six. This would staff in excess of the Film Commission positions for that new credit. Once the Authority has actual data on applicants, transactions, and workload per activity in hours, a request for a future staffing adjustment could be considered without prejudice to this year's action.

LAO Recommendation: Due to the current fiscal stress on the General Fund, the LAO recommends that the loan be made by an alternative funding source - the Renewable Resource Trust Fund (RRTF). The RRTF has a healthy balance and can sustain a loan of this magnitude without adverse programmatic impacts on programs supported by the RRTF. Additionally, we recommend that the repayment terms in the BCP be maintained.

Staff Recommendation: (1) Approve 4.0 new staff instead of 6.0; (2) approve the LAO's recommendation to use the Renewable Resource Trust Fund for the loan instead of the General Fund; and (3) reduce the loan amount to conform to (1).

Vote: *Approved staffing request (6 positions), and approved LAO recommendation to take loan from Renewable Resource Trust Fund instead of General Fund.*

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 U.S. 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 issue was heard in the Subcommittee on April 29, 2010, and left open for further review. This backfill is associated with a state/local healthcare realignment implemented in 1991. The realignment involved local governments assuming certain healthcare responsibilities from the State in exchange for certain revenues (a specified percentage of Vehicle License Fee and sales tax revenues) to support those programs. Local realignment revenue fluctuates with the economy and is also affected by changes to state tax policy, such as a new sales tax exemption.

LAO Recommendation: The Analyst recommends approval of the budget request. The LAO indicates that the State has been backfilling for lost revenue related to conformity to the North American International Registration Plan for commercial vehicles since 2000. However, like new sales tax exemptions that change the tax base for sales tax realignment revenues, the backfill is not required as a condition of realignment.

Staff Recommendation: Approve the request.

Vote: *Approved Governor's request on a 2-0 vote.*

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.

Full Committee Hearings the Week of May 24: The Full Budget Committee will hear and act on certain budget proposals the week of May 24. Generally, the issues held open in Subcommittee to be determined in the Full Budget Committee are those that have a larger General Fund impact and/or are crosscutting in subject matter, or would otherwise benefit from discussion in the Full Budget Committee. The May Revision request to suspend the "Handicapped and Disabled Student I & II, and Seriously Emotional Disabled Pupils (AB 3632)" mandate is considered to be a candidate for Full Committee action due to its high cost (\$131 million General Fund) and its cross-cutting nature with education and mental health issues. It is not included as an issue in this Subcommittee agenda.

Issue 1 –Mandate Reimbursement Process I and II

Budget Issue: In the May Revision, the Administration requests to suspend two mandates – the Mandate Reimbursement Process (MRP) and the Mandate Reimbursement Process II (MRP II). The Administration estimates the following savings from the suspension of these mandates (dollars in millions):

	2010-11 cost of Reimbursement for prior years	2012-13 State cost of reimbursement for 2010-11 local activities.
Mandate Reimbursement Process	\$0	\$20.0
Mandate Reimbursement Process II	\$0	?
TOTAL	\$0	\$20.0

As the table indicates, the suspension of these mandates would not result in a 2010-11 budget cost savings, but by suspending the mandates, it would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget.

Issue Background: These mandates establish the process by which local agencies receive reimbursement for state-mandated programs. The statutes prescribe the procedures that must be followed by the claimants to file a claim with the State Mandates Commission. The first mandate, MRP, dates back to a 1986 determination, and the second mandate, MRP II, dates back to 2005 legislation. Both mandates have been litigated recently and due to that litigation and other factors the Commission’s adoption of parameters and guidelines for MRP II is still pending and the actual cost of the reimbursement is unknown. The MRP mandate has been suspended in the past, most recently in 2008-09. However, the mandate was not suspended in 2009-10 or requested for suspension in the January Governor’s Budget. A 2009 court ruling directed the Commission to reinstate the MRP mandate and reconsider the original determination for MRP II.

Staff Comment: The Department of Finance recommends the Legislature suspend the MRP and MRPII mandates for one year to allow the Administration to do a thorough review of the reimbursement claims submitted to the Controller in May 2010 for the purpose of gathering cost data from the claims.

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: Approve the May Finance Letter.

Vote: *Approved May Finance Letter on a 2-0 vote. Approved a report requirement to be implemented with Budget Bill Language.*

Issue 2 – Open Meeting / Brown Act Mandate

Budget Issue: In the May Revision, the Administration requests to suspend the Open Meeting / Brown Act mandate, which requires posting of agendas and other public access for local government meetings. The Administration estimates the following savings from the suspension of these mandates (dollars in millions):

	2010-11 cost of Reimbursement for prior years	2012-13 State cost of reimbursement for 2010-11 local activities.
Open Meeting / Brown Act	\$0.4	\$16.5

As the table indicates, the suspension of these mandates would result in a small 2010-11 budget cost, but by suspending the mandate, it would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget.

Issue Background: This mandate was also involved in litigation. Proposition 59 of 2004 enacted certain open meeting requirements on local governments. In AB 138 (Chapter 72, Statutes of 2005), the Legislature asked the Commission to reevaluation the Open Meeting / Brown Act reimbursement requirements in light of Proposition 59. The Commission complied and found the state no longer had a reimbursement obligation. However, litigation resulted in the Court ordering reinstatement of the reimbursements on process issues. (Note, Issue #4 in this agenda is a suggested remedy to address the courts process issues, which have to do with the separation of powers and the AB 138 direction from the Legislature to the Commission).

LAO Recommendation: The Analyst recommends another approach to remove the state’s reimbursement obligation by using the provisions of Proposition 59. Specifically, the LAO recommends the Legislature modify current law to make provisions “best practices” for compliance with Proposition 59 (2004).

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 this issue 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.

Vote: *Approved LAO recommendation on a 2-0 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. The Administration also requested trailer bill language in the Human Services area to make the advisory committees optional.

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 addition 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: Approve the \$475,000 General Fund augmentation and do not suspend the mandate. Take no action on the Administration's trailer bill, which is in the purview of Subcommittee 3.

Vote: *Approved staff recommendation on a 2-0 vote.*

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. This issue was heard at the April 29 hearing and left open for further review.

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 determinative role in a redetermination, but may indicate legislative intent, 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 the changes made to the draft trailer bill since the last hearing?

Recommendation: Approve placeholder trailer bill language.

Vote: *Approved placeholder trailer bill language on a 2-0 vote.*

SUBCOMMITTEE NO. 4

Agenda

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



Wednesday, May 19, 2010
1:30 p.m.
Room 112

Consultant: Seija Virtanen

Part B

<u>Item</u>	<u>Department</u>
1110/1111 2400	Department of Consumer Affairs, Boards, Bureaus, Programs, Divisions Department of Managed Health Care

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

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1110/1111 Department of Consumer Affairs

Departmental Overview and Mission. The Department of Consumer Affairs (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 – Board of Accountancy – AB 138: Peer Review (BCP #01L)

Board of Accountancy. Created by statute in 1901, the California Board of Accountancy's (CBA) 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 (Hayashi, 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.

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

VOTE:

Issue 2 – Veterinary Medical Board – 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 the 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.

The new licenses that will be provided under AB 107 will not be sufficient to pay for the position requested. However, the Board is in the process of raising its fees, which would provide sufficient revenue to cover the requested position.

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

VOTE:

Issues Proposed for Discussion:

Issue 3 – Consumer Protection Enforcement Initiative (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 pursuing 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).

May Revise. The Governor's May Revise proposal includes revised trailer bill language that is much more condensed than the January 10 version. The May

Revise trailer bill language allows the healing arts boards to have non-sworn investigators perform investigations.

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 January Budget proposal overlapped greatly with a pending policy bill, SB 1111. The May Revise language still contains the same language as 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.

Previous staff concerns with the wording of the budget bill language have been addressed. The revised language is shown below under staff recommendations.

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.

Staff Recommendation. Staff recommends that the Subcommittee:

1. Approve a phased-in approach for the requested staffing by approving 70 positions for 2010-11. The department should return to the Subcommittee in 2011 to request the remaining positions and provide an update on hiring.
2. Reject the trailer bill language.
3. Approve the following budget bill language:

1110-402 -- It is recognized that the Healing Arts Boards within the Department of Consumer Affairs are incurring enforcement costs for Attorney General (AG) and Office of Administrative Hearing (OAH) services that could have a fiscal impact beyond the amounts appropriated in their respective budget act items. Therefore, notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance

may augment the amount available for expenditure by up to \$200,000 and \$40,000, to pay AG and OAH enforcement costs, respectively. If the aggregate augmentation amounts exceed \$200,000 or \$40,000 for AG and OAH enforcement costs, respectively, the augmentation may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The Director of the Department of Consumer Affairs shall provide a report on or before March 1, 2011, on actual AG and OAH augmentations made during the 2010-11 fiscal year as well as a projection on future funding needs for the remainder of the fiscal year. These reports shall be provided on March 1st of each year thereafter.

VOTE:

Issue 4 – 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 existing DCA database capabilities are limited. The licensing process is very labor- and paper-intensive. All license information must be manually entered into the databases by the boards' employees. Licensees cannot pay for renewals on-line. Updating the technology for the licensing systems would allow the boards to provide more effective customer service and would reduce the need for licensing staff at the boards.

The proposed payment structure includes a fixed payment to the vendor at the beginning of the project, followed by five years of "fee-per-transaction" payments that are capped at \$28 million. After five years the BreEZe contract could be renegotiated for another ten years. However, though DCA has informed staff in meetings that the "fee-per-transaction" would be less than 40 cents per transaction, the written proposal submitted to the Budget Committee states that the fee will be \$3.00 per transaction.

Staff Recommendation. Staff recommends that the Subcommittee approve the proposal with trailer bill language requiring the Department of Consumer Affairs to receive Joint Legislative Budget Committee approval for the final contract before payments to the vendor can commence. Staff also recommends that the trailer bill include reporting requirements for DCA to examine the need for the DCA boards' licensing positions after the BreEZe system has been completed.

VOTE:

Issue 5 – 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.

The structure for the Bureau proposed in the BCP matches the Legislative intent in AB 48. The budget proposal is requesting 67.4 positions for the new Bureau. The previous Bureau operated with the following positions:

2003-04	2004-05	2005-06	2006-07
57.8	58.7	58.2	55.4

Staff Recommendation. Staff recommends that the Subcommittee approve 60 permanent positions for the Bureau for Private Postsecondary Education.

VOTE:

Issue 6 – Board of 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 Board currently oversees approximately 66,000 licensees with 38 staff. That averages about 1,736 licensees per staff member. The proposal submitted by the Governor is requesting 12 positions to process about 7,500 new licensees, or 625 licensees per new staff member. Staff does not think that a 11 percent increase in workload justifies a 30 percent increase in staff.

Staff Recommendation. Staff recommends that the Subcommittee approve five positions for addressing the workload related to SB 788.

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.

Issue 1 – 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 files 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.

Current Autism Cases at DMHC

Action	2006-07	2007-08	2008-09	2009-10*
Cases Closed	61	77	163	202
IMRs	38	44	81	86

**Projected*

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 were 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.

Staff reviewed the DMHC website for easily-accessible information on autism services and could not find information on how to proceed when an RC denies the consumer care. The DMHC website does include detailed data on how to file a complaint or grievance, but does not specifically provide information on AB 9xxxx. Even the Office of the Patient Advocate (OPA) website does not provide easily accessible information on AB 9xxxx. The OPA website search engine under the heading “Getting the Right Care for Your Health Problem” does not include “autism” or “mental health” as search options. Also, the DMHC website includes information on contacting the Help Center, which will most likely be the entity to educate the consumers on their rights. On April 29 the Subcommittee approved additional positions for the Help Center.

When AB 9xxxx was debated in the Senate, it was estimated to provide the State savings of \$200 million.

Staff Recommendation. Staff recommends that the Subcommittee reject the proposal and direct the department to include additional information on their website regarding the impact of AB 9xxxx.

SUBCOMMITTEE NO. 4

Outcomes

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



Wednesday, May 19, 2010

Outcomes

Consultant: Seija Virtanen

Part B

<u>Item</u>	<u>Department</u>
1110/1111 2400	Department of Consumer Affairs, Boards, Bureaus, Programs, Divisions Department of Managed Health Care

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

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1110/1111 Department of Consumer Affairs

Departmental Overview and Mission. The Department of Consumer Affairs (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 – Board of Accountancy – AB 138: Peer Review (BCP #01L)

Board of Accountancy. Created by statute in 1901, the California Board of Accountancy's (CBA) 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 (Hayashi, 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.

Action: Approved

VOTE: 2-0 (Harman)

Issue 2 – Veterinary Medical Board – 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 the 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.

The new licenses that will be provided under AB 107 will not be sufficient to pay for the position requested. However, the Board is in the process of raising its fees, which would provide sufficient revenue to cover the requested position.

Action: Approved

VOTE: 2-0 (Harman)

Issues Proposed for Discussion:

Issue 3 – Consumer Protection Enforcement Initiative (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 pursuing 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).

May Revise. The Governor's May Revise proposal includes revised trailer bill language that is much more condensed than the January 10 version. The May

Revise trailer bill language allows the healing arts boards to have non-sworn investigators perform investigations.

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 January Budget proposal overlapped greatly with a pending policy bill, SB 1111. The May Revise language still contains the same language as 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.

Previous staff concerns with the wording of the budget bill language have been addressed. The revised language is shown below under staff recommendations.

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.

Action: The Subcommittee took the following actions:

1. Approved a phased-in approach for the requested staffing by approving 70 PY for 2010-11. The department should return to the Subcommittee in 2011 to request the remaining positions and provide an update on hiring.
2. Rejected the trailer bill language.
3. Approved the following budget bill language:

1110-402 -- It is recognized that the Healing Arts Boards within the Department of Consumer Affairs are incurring enforcement costs for Attorney General (AG) and Office of Administrative Hearing (OAH) services that could have a fiscal impact beyond the amounts appropriated in their respective budget act items. Therefore, notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance

may augment the amount available for expenditure by up to \$200,000 and \$40,000, to pay AG and OAH enforcement costs, respectively. If the aggregate augmentation amounts exceed \$200,000 or \$40,000 for AG and OAH enforcement costs, respectively, the augmentation may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The Director of the Department of Consumer Affairs shall provide a report on or before March 1, 2011, on actual AG and OAH augmentations made during the 2010-11 fiscal year as well as a projection on future funding needs for the remainder of the fiscal year. These reports shall be provided on March 1st of each year thereafter.

NOTE: Senator Negrete McLeod expressed her support for consumer protection and desire to see more investigators at the DCA. Senator Negrete McLeod stated that she was willing to vote for staff recommendation with the understanding that the number of positions would be examined in more depth in the Conference Committee.

VOTE: 2-0 (Harman)

Issue 4 – 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 existing DCA database capabilities are limited. The licensing process is very labor- and paper-intensive. All license information must be manually entered into the databases by the boards' employees. Licensees cannot pay for renewals on-line. Updating the technology for the licensing systems would allow the boards to provide more effective customer service and would reduce the need for licensing staff at the boards.

The proposed payment structure includes a fixed payment to the vendor at the beginning of the project, followed by five years of "fee-per-transaction" payments that are capped at \$28 million. After five years the BreEZe contract could be renegotiated for another ten years. However, though DCA has informed staff in meetings that the "fee-per-transaction" would be less than 40 cents per transaction, the written proposal submitted to the Budget Committee states that the fee will be \$3.00 per transaction.

Action: The Subcommittee approved the proposal with trailer bill language requiring the Department of Consumer Affairs to receive Joint Legislative Budget Committee approval for the final contract before payments to the vendor can commence. The Subcommittee also approved trailer bill language that includes reporting requirements for DCA to examine the need for the DCA boards' licensing positions after the BreEZe system has been completed.

VOTE: 2-0 (Harman)

Issue 5 – 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.

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Action: The Subcommittee approved 60 permanent PY for the Bureau for Private Postsecondary Education.

VOTE: 2-0 (Harman)

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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.

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Staff Comment. The Board currently oversees approximately 66,000 licensees with 38 staff. That averages about 1,736 licensees per staff member. The proposal submitted by the Governor is requesting 12 positions to process about 7,500 new licensees, or 625 licensees per new staff member. Staff does not think that a 11 percent increase in workload justifies a 30 percent increase in staff.

Action: The Subcommittee approved five positions for addressing the workload related to SB 788. The number of positions would not grow in 2011-12.

VOTE: 2-0 (Harman)

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.

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When AB 9xxxx was debated in the Senate, it was estimated to provide the State savings of \$200 million.

Action: The Subcommittee rejected the proposal and directed the department to include additional information on their website regarding the impact of AB 9xxxx.

VOTE: 2-0 (Harman)

SUBCOMMITTEE NO. 4

Agenda

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



Agenda Part "C"

Wednesday, May 19, 2010
1:30 p.m.
Room 112

Consultant: Bryan Ehlers

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8880 Financial Information System for California

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. The development of FI\$Cal resides with four “Partner Agencies,” the Department of Finance, the State Treasurer’s Office, the State Controller’s Office, and the Department of General Services.

As an ERP system, FI\$Cal will be a set of software applications that will integrate and streamline the aforementioned business processes across state government, and, in so doing, replace aging legacy systems, inefficient “shadow” systems, and duplicate processes throughout the state’s departments and agencies. The FI\$Cal system will be implemented in several phases, or “waves,” over the next decade.

Governor’s Budget. The Governor proposes \$38.4 million for continuing the FI\$Cal project, including \$30.7 million GF (\$14.8 million of which is to be carried over from a previous \$38 million GF loan the Legislature authorized in 2008-09), and \$7.7 million from special funds.

Background and Recap of the March 11 Hearing on FI\$Cal. The Subcommittee heard the Governor’s Budget proposal for FI\$Cal on March 11, at which time a couple of key project changes were noted:

- The project has adopted a two-step procurement strategy (or “Bake-Off”) which includes the following:
 - 1) **Fit-Gap Analysis.** The project chooses three vendors to participate in a “Fit-Gap” analysis—a review of potential gaps between the vendor’s software and the state’s business requirements.
 - 2) **Design, Development, and Implementation Award.** Each of the three vendors participating in the Fit-Gap analysis can develop and submit a detailed FI\$Cal implementation plan, with one receiving the contract award as the System Integrator (SI).
- The project has adopted a new implementation strategy involving a more limited (or phased) roll-out than previously envisioned. Instead of implementing all functionalities (e.g., accounting, budgeting, procurement, financial management, etc.) at once, the new approach would focus initially (in Wave 1) on implementing a reduced set of processes (to be determined during the fit-gap analysis) in a handful of departments before

moving on to introduce accounting in other departments or adding functionalities to Wave 1 departments.

As discussed at the March 11 hearing, LAO and staff believe the above project alterations generally serve to reduce cost and risk, and enhance the project's chances for success.

Ultimately, the Subcommittee held the item open to await further project updates. As enumerated below, the Governor has since proposed, via an April Finance Letter, funding adjustments due to an accelerated project schedule, as well as various statutory changes, via proposed trailer bill language (TBL) in the May Revise.

New FI\$Cal Proposals for the Subcommittee's Consideration. The Governor's two spring proposals are discussed below, and a consolidated staff recommendation (addressing both proposals) follows.

1. Finance Letter: Project Schedule and Funding Adjustments. The Governor proposes an increase of \$4.2 million (FI\$Cal Internal Services Fund) in order to accelerate Stage One of the procurement process by two months (from nine months to seven months) and pay vendors (\$1.4 million apiece) for Fit-Gap analysis deliverables in the 2010-11 Fiscal Year (rather than in 2011-12). Under the new proposed timeline (contained in Appendix A), the project would award the final SI contract in September 2011.

Additionally, the Governor proposes a technical change, including amendments to Control Section 8.88 to reflect the elimination of several proposed assessments from non-governmental cost funds (which were ultimately deemed inappropriate because the affected entities will not use the full functionality of FI\$Cal).

Staff Comments: For reasons previously outlined in the March 11 agenda, staff generally supports continued funding (of \$42 million in FY 2010-11) for FI\$Cal at this time, and notes no significant concerns with the proposed plan to accelerate the Fit-Gap process and the associated expenditures.

However, while the Subcommittee is not yet confronted with a \$1 billion-plus decision to fund the implementation of FI\$Cal, this year's budget approval would carry the project through the Fit-Gap analysis and bring it to within several months of awarding a final SI contract. Therefore, the Subcommittee should carefully consider what it would be purchasing for \$42 million.

As the LAO points out, this \$42 million investment would produce, via the Fit-Gap analysis, several tangible documents (one from each vendor) with greater value than an RFP alone, and would provide the Legislature with more accurate

information about what the project would actually cost at the end of the process. That information, along with considerations of the economic climate at the time, could guide the Legislature in deciding whether it was feasible to continue with the project. Even so, in order to provide the state with more tangible products and give the Legislature additional options to consider, including the option to develop a less costly version of FI\$Cal, the **LAO recommends** that the Legislature direct the project managers to require vendors to develop a scaled-back plan with less functionality in addition to the current plan to develop a fully functioning system. (Since the RFP has already been released, this option would require an addendum to the RFP.)

Questions:

- Does the project have any concerns with the LAO recommendation to develop a scaled-back plan in addition to the full-functionality plan?
- Given that the budget could be delayed, how soon could FI\$Cal have the RFP amended if it becomes clear through the Subcommittee process that the Legislature wishes vendors to provide a scaled-back option?

2. TBL: Repeal, Re-enact, and Amend FI\$Cal Statutes. The Governor proposes, via TBL, to: (1) re-enact FI\$Cal authorization and financing provisions as separate legislation to address the single-subject-rule issue raised by the Attorney General's office and preserve the potential for bond financing in the future; (2) amend the FI\$Cal statute provisions (e.g., project objectives) to make them consistent with the latest Special Project Report (SPR 3); (3) delete the "hard pause" (associated with the previous SPR 2 approach) for legislative review of the project; and (4) clarify that some departments with existing ERPs will need to interface with the system.

Staff Comments. Regarding the general repeal, reenactment, and amendment of the FI\$Cal statute to conform to SPR 3, staff notes no concerns in concept. However, the proposed changes are myriad, and require additional review by staff and the LAO. Therefore, should the Subcommittee elect to adopt such provisions, staff would recommend doing so only in concept, in the form of placeholder TBL, so that staff and the LAO may have more time to work with the Administration on any needed revisions.

Additionally, regarding the need to clarify that some departments with existing ERPs will need to interface with FI\$Cal, staff notes no particular concerns.

However, staff notes significant concerns with the Governor's proposal to eliminate the existing "hard pause" in FI\$Cal implementation and to provide no enhanced legislative review of the fully-envisioned project in its stead.

The “hard pause” was adopted in TBL in 2008 when full FI\$Cal functionality was planned to be rolled out all at once across each successive wave of departments. The pause was to occur after completion of Wave 1 deployment (consisting of a handful of departments), but before the vast majority of project costs were incurred, so that the Legislature (and the project) could evaluate the project to-date and assess its chances for success before committing to fund the remainder of the project—approximately \$1 billion.

While staff acknowledges that the “hard pause” contained in existing statute is not well-suited to the revised project implementation plan, deletion of this critical opportunity for review would greatly reduce legislative oversight of the project. All that would remain would be a provision adopted last year in TBL that would require 30-day notification to the Legislature before award of the SI contract. Given the years of review and planning, and the approximately \$1.5 billion that will be at stake, if no future pause for legislative review is in place, 30 days hardly seems adequate time for the Legislature to conduct its due diligence of such a massive undertaking.

Therefore, staff strongly recommends the Subcommittee consider enhancing the period of legislative review from 30 days to at least 60 days (and preferably 90 days). As the LAO notes, this review period would provide the Legislature with at least three options: (1) concurring with the proposed contract, (2) not concurring, or (3) deferring consideration of FI\$Cal project continuance to the regular budget process. Expanding the review period would give the Legislature sufficient time to schedule hearings, if necessary, to consider the merits of the bake-off proposals. Additionally, if there were major concerns, the Legislature would have the option to defer approval of the proposed plans for system development to the regular budget review process.

Questions:

- From the project’s perspective, what are the pros and cons of providing additional time for legislative review before contract award?
- How much difference is there between 30, 60, or 90 days?

Staff Issue: Paying for FI\$Cal. As noted in the March 11 agenda, the initial FI\$Cal funding plan relied heavily on bond financing for the early years of development. Now, due to potential difficulties in issuing bonds, the Administration proposes to use vendor financing in lieu of bond proceeds, and to tap into special funds earlier than anticipated. As the LAO notes, should the project not be completed or delayed indefinitely, the GF could be obligated to repay these special fund costs.

The project is not requesting financing at this time (nor would it be necessary until the time of the SI contract award), the Subcommittee should obtain an

update on current financing plans, including how the requested repeal and re-enactment of FI\$Cal statutory authority could affect future financing options.

Questions:

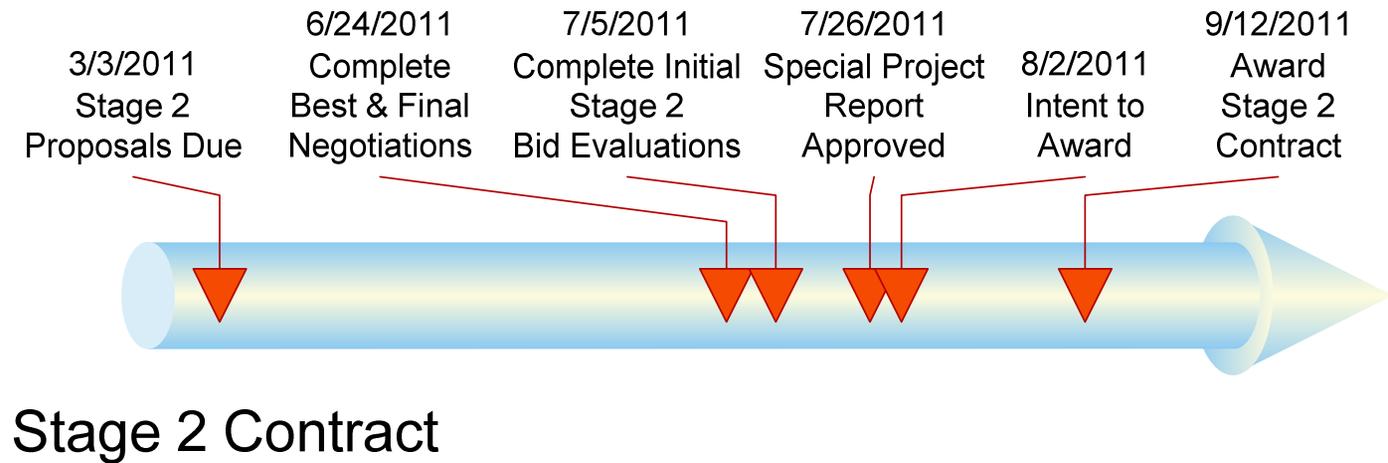
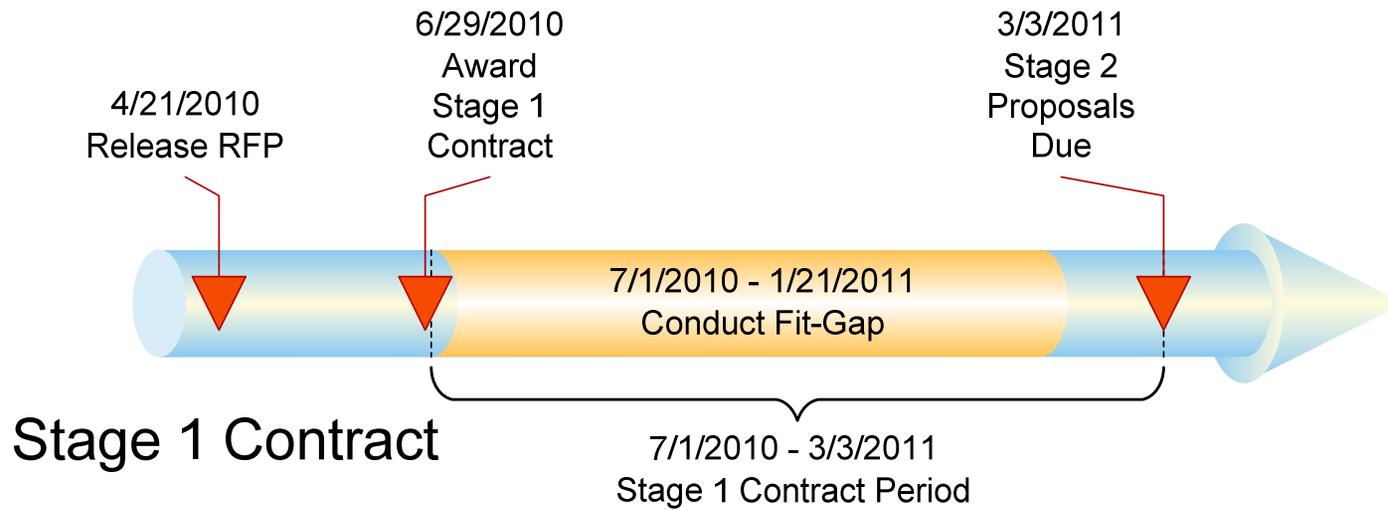
- What, if any, changes in the project's potential/preferred funding options have occurred since this issue was heard back in March?
- Does it appear bond financing may eventually prove viable? Why or why not?

Final Staff Thoughts: Unanimity Essential. Staff recommends the Subcommittee only approve ongoing resources for FI\$Cal if there is unanimous support. Not only the potential price tag, but the far-reaching implications of the project for state government, militates toward a consensus approach that ensures broad support and buy-in.

Staff Recommendation: If there is unanimous Subcommittee support, then APPROVE the Governor's Budget, April Finance Letter, and May Revise TBL with the following changes: (1) adopt, in concept, an enhanced period of legislative review of 90 days (with an option to waive the final 30 days) before executing a contract with the vendor; and (2) adopt all TBL as placeholder to allow staff to work with the LAO and the Administration to iron out final details. Additionally, in light of the uncertainty surrounding the availability of future funding, ADOPT the LAO recommendation to direct the project to require vendors to develop a scaled-back plan with less functionality in addition to the current plan to develop a fully functioning system.

VOTE:

Appendix A – FI\$Cal Updated Procurement Timeline



SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 20, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

MAY REVISE AND "OPEN ISSUES" HEARING PART A

Item Number and Title

0502	Office of the State Chief Information Officer
0650	Office of Planning and Research
0596	California Agency on Service and Volunteering
0840	State Controller's Office
1760	Department of General Services
2240	Department of Housing and Community Development
8910	Office of Administrative Law

Control Section 4.75 Statewide Surcharge

(Please see detailed agendas on pages 2 and 3 for a 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.

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0840	State Controller’s Office	5
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	Issue 1 – Lease-Revenue Bond Debt Service Adjustments	6
2240	Department of Housing and Community Development	6
	Issue 1 – Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities	6
CS 4.75	Statewide Surcharge: Control Section 4.75	7

AGENDA – DISCUSSION / VOTE ITEMS

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Issues Proposed for Vote Only:

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Office of the State Chief Information Officer (0520)				
1	Sacramento Public Safety Communications Decentralization Project	\$3,268,000 (one-time)	Technology Services Revolving Fund	APPROVE
State Controller's Office (0840)				
1	Motor Vehicle Fuel Storage Tax	\$100,000	Motor Vehicle Fuel Fund	APPROVE
Department of General Services (1760)				
1	Various Lease-Revenue Bond Debt Service Adjustments	\$4,587,000 \$10,657,000	General Fund Other Funds	APPROVE
Department of Housing and Community Development (2240)				
1	Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities to Implement AB 32	\$54,000	Air Pollution Control Fund	CONFORM with Subcommittee No. 2's action on the AB 32 Package
Statewide Surcharge (Control Section 4.75)				
1	Statewide Surcharge	n/a	n/a	APPROVE

VOTE:

VOTE ONLY ITEMS – ISSUE DESCRIPTIONS

Office of the State Chief Information Officer (0502)

Issue 1 – Sacramento Public Safety Communications Decentralization Project

Governor’s Request. The Governor’s May Revision requests one-time increased expenditure authority of \$3.268 million (Technology Services Revolving Fund) in 2010-11 for the purchase or replacement of public safety equipment for existing communications towers which are part of the Sacramento Public Safety Communications Decentralization Project (Project). The Project will relocate a “communications ring” from the top floor of the Resources Building in Sacramento to various outlying sites in northern California. The Project costs for equipment expenditures in this request will be recovered through current established user rates.

Staff Comment. This request complements a May 1 Finance Letter Capital Outlay request to reappropriate \$3.2 million (variety of bond and special funds) for working drawings on the Project that was approved by this Subcommittee on May 13. Approval of this one-time expenditure authority will allow continuation and completion of this critical public safety communications project.

Staff Recommendation. APPROVE.

State Controller’s Office (0840)

Issue 1 – Motor Vehicle Fuel Storage Tax

Governor’s Request. The Governor’s May Revision requests one-time increased expenditure of \$100,000 (Motor Vehicle Fuel Fund) in 2010-11 to support one one-year limited term position to address the additional workload associated with the Chapter 11, Statutes of 2009-10 8th Extraordinary Session (ABX8 6).

Background. Chapter 11 added a new motor vehicle fuel storage tax. The Board of Equalization has requested additional assistance from the State Controller’s Office (SCO) to provide accounting services for implementation of this new tax. The limited term position in this request will be performing the accounts receivable set up for the new motor vehicle fuel storage tax accounts. There will be ongoing collection activities for some of the accounts, but the SCO indicates that existing collection staff will absorb that workload.

Staff Recommendation. APPROVE.

Department of General Services (1760)

Issue 1 – Lease-Revenue Bond Debt Service Adjustments

Governor's Request. The Governor's May Revision requests increased expenditure authority of \$4.587 million General Fund and \$10.657 million in other funds in 2010-11 to pay for the lease-revenue bonds that were sold to finance the Department of General Services, Central Plant Renovation Project.

Staff Comment. The state sold lease-revenue bonds in the fall of 2009 to finance the construction phase of this project which provides heating and cooling to 23 state office buildings in downtown Sacramento, including the State Capitol. In essence, this request makes various technical corrections for the payment of lease-revenue debt in 2010-11. Upon enactment of the budget, an executive order will be processed per Control Section 4.30 to allocate the adjustments to the various departments that occupy the 23 state office buildings which receive heating and cooling from and therefore benefit from the operations and maintenance of the Central Plant.

Staff Recommendation. APPROVE.

Department of Housing and Community Development (2240)

Issue 1 – Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities to Implement AB 32 (BCP #2)

Governor's Request. The January Governor's budget requests increased expenditure authority of \$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; Statutes 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. AB 32 authorized the Air Resources Board to adopt, by regulation, a schedule of fees to be paid by sources of green house gas emissions into the Air Pollution Control Fund to support the administrative costs of implementing AB 32.

Staff Comments. When this item was first heard on March 11, 2010, staff noted no concerns with this request, as there is legitimate increased workload for HCD related to the implementation of AB 32. However, much larger state operations cost issues relative to the implementation of AB 32 were pending before Subcommittee No. 2 on

Resources. This Subcommittee held this request open to allow time for Subcommittee No. 2 to consider those larger issues.

Staff Recommendation: CONFORM to Subcommittee No. 2's action on the larger AB 32 Package.

Statewide Surcharge (Control Section 4.75)

Governor's Request. The Governor's May Revision requests that Control Section 4.75 be added to provide authority to the Department of Finance to make adjustments to the Statewide Surcharge amounts in departmental appropriations for 2010-11.

Background. The Statewide Surcharge was established in 2005 to provide a method for the Department of General Services to recover costs for central services, such as maintenance and operation of Capitol Park and legislative printing. The Surcharge is based on the total number of positions authorized for an affected department. The Statewide Surcharge has not been reallocated since initial implementation. Given that many departments have had significant changes in the numbers of authorized personnel, there is a need to adjust departments' share of the Statewide Surcharge.

Staff Comment. The Administration indicates that its intent in implementing this Control Section would be to not result in any General Fund increases. Because the Statewide Surcharge has not been reallocated since implementation, the Administration projects a shortage in 2009-10 of \$2.44 million. If this request is not approved, the disparity will continue, with several state entities continuing to generate savings due to an incorrect budget as others will be disproportionately assessed the surcharge.

Staff Recommendation. APPROVE.

*Issue Proposed for Discussion / Vote:***Issue 1 – Infill Infrastructure Grant Funding Availability**

Background. The Infill Infrastructure Grant Program (IIG) funds infrastructure improvements to facilitate new housing development in residential or mixed use infill projects and infill areas. Beginning in 2007-08, and continuing through 2009-10, the IIG funds have been appropriated by Housing and Community Development (HCD) to qualifying projects. HCD has also set aside the necessary funds for long-term monitoring, which will begin in 2012-13. HCD indicates that there is currently \$9.275 million remaining available for expenditure in the IIG Program. The funds are a result of: (1) salary savings due to the early adoption of the 2009-10 Budget which allowed HCD to combine award cycles; and (2) administrative cost savings due to the fact that there was an inadvertent double count on the \$60 million of IIG Funds that were transferred to the California Recycle Underutilized Sites (CALReUSE) Program, which is administered by the California Pollution Control Financing Authority.

Staff Comment. Staff finds that the remaining \$9.275 million in IIG funds should be utilized to provide funding to three IIG projects in Round 1 that did not receive full funding: (1) Francher Creek Properties, Fresno (received 80 percent; \$528,396 outstanding); (2) Township 9, Sacramento (received 50 percent; \$10.9 million outstanding); and (3) The Grand, Los Angeles (received 80 percent, \$2.9 million outstanding). Staff notes that the outstanding amount for these three projects totals \$14.3 million, which is more than the \$9.275 million remaining. HCD indicates it would utilize a proportional allotment to get these three projects closer to full funding. Finally, staff notes that this approach will require an appropriation as well as budget bill language to authorize HCD to utilize the prior Notification of Funding Availability. This is required because unlike most of the Proposition 1C-funded programs (e.g., Multifamily Housing, CalHOME, and Serna Farmworker Housing) the IIG program requires a budget act appropriation. The \$9.275 million in remaining IIG funds has never been appropriated and has been part of the reserve.

Staff Recommendation. APPROVE budget bill language to appropriate the remaining \$9.2 Infill Infrastructure Grant Program funds and authorize HCD to allocate the funding to the three IIG projects that did not receive full funding in Round 1.

VOTE:

*Issue Proposed for Discussion / Vote:***Issue 1 – Eliminate Office of Planning and Research (April Finance Letter)**

Governor's Request. The Governor requests to eliminate the Office of Planning and Research (OPR), retaining 57.1 positions in new locations and eliminating 33.9 positions, generating \$571,000 (General Fund) in savings. The Administration is also proposing the establishment of the California Agency on Service and Volunteering (discussed next in this agenda) as well as trailer bill language to make necessary changes to statute to reflect the elimination of OPR.

LAO Recommendation. The LAO has long recommended eliminating 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 that lay out statewide planning and land use coordination and state environmental policy report functions. Finally, the LAO notes that several policy bills seek to modify or expand OPR's role in such areas as environmental and land use planning. In light of this legislative policy interest, some have expressed doubt that now is the time to eliminate OPR. If the Legislature chooses to reject the Governor's elimination proposal, it may still achieve the GF savings scored by the Administration by eliminating several positions, such as those that now provide enrolled bill and policy analyses for the Governor's Office, consistent with parts of the Administration's proposal or LAO recommendations related to OPR and the California Agency on Service and Volunteering (CASV). If OPR is continued, however, some of the positions targeted for elimination in the Administration's proposal may need to be continued to perform administrative and financial functions for OPR.

Specifically, under the approach to retain OPR but still achieve GF savings, the LAO suggests that one possibility would be for the Legislature to continue OPR (including California Volunteers) and keep within the office the: (1) two staff analyst positions now proposed to be moved to OPR (already paid for within the Governor's CASV budget) and (2) a staff analyst position and the administrative assistant I and office assistant I positions (with combined salary, benefit, and operating expense costs identified at \$242,505) now targeted for elimination from OPR's administration unit. To offset the additional costs of approximately \$240,000 resulting from these actions to retain administrative positions, the Legislature could eliminate some or all of the additional positions in OPR that the LAO has proposed for elimination. A Department of Finance document identifies the combined salary, benefit, and operating expense costs of each of those positions as follows:

- Assistant to the Governor in the OPR Legislative Analysis Unit proposed to be transferred to Housing and Community Development (\$130,000 General Fund).
- Staff IPA in the OPR Legislative Analysis Unit proposed to be transferred to State and Consumer Services Agency (\$83,000 General Fund and \$16,000 other funds).
- The two information technology staff positions proposed to be moved to the Governor's Office (\$213,000 General Fund and \$41,000 other funds).

- The Small Business Advocate and an assistant from the OPR Small Business Advocate Unit (\$206,000 General Fund and \$39,000 other funds) proposed to be transferred to the Business, Transportation, and Housing Agency.

Staff Comment. Given the number of policy bills pertaining to OPR, as well as the fact that there will be a change in Administration at the end of this year, staff notes that now is not perhaps the time to eliminate OPR. However, staff concurs with the LAO's recommendation that there is an opportunity to produce some GF savings by reducing staffing levels within OPR even if the office is not eliminated.

Staff Recommendation. DENY the Governor's request to eliminate the Office of Planning and Research, as well as the request to create the California Agency on Service and Volunteering (discussed next in this agenda). This action maintains the CEQA clearinghouse and environmental planning and coordination functions in OPR, as well as the CaliforniaVolunteers program. With technical details to be worked out with staff and Department of Finance, ELIMINATE a total of 30.9 positions for General Fund savings of \$544,000, as follows:

1. Eliminate the 33.9 OPR positions as proposed by the Governor except for the following five administrative positions: three staff analyst positions, one administrative assistant position, and one office assistant position, all which currently provide administrative and financial support to OPR.
2. Eliminate the following two positions as identified on the LAO's list above: (1) Assistant to the Governor in the OPR Legislative Analysis Unit proposed to be transferred to Housing and Community Development (\$130,000 General Fund) and (2) Staff IPA in the OPR Legislative Analysis Unit proposed to be transferred to the State and Consumer Services Agency (\$83,000 General Fund and \$16,000 other funds).

*Issue Proposed for Discussion/Vote:***Issue 1 – Establish CaliforniaVolunteers as the California Agency on Service and Volunteering (April Finance Letter)**

Governor’s Budget. In light of the Governor’s proposal to eliminate the Office of Planning and Research (OPR), the Governor requests to establish the California Agency on Service and Volunteering (CASV) as the new home for the CaliforniaVolunteers (CV) Program and provide the CASV with 41.4 authorized positions and \$34.2 million (\$1 million General Fund, \$30.1 million federal funds, and \$3.1 million reimbursements). This request includes proposed trailer bill language to establish both CASV and the CaliforniaVolunteers Fund (CV Fund) in statute.

Background. The CaliforniaVolunteers program has existed within the Governor’s Office since 1994, albeit with different names depending on the Administration, with the primary function of administering the federal AmeriCorps and other community service programs in California. The CV program is currently housed within OPR.

LAO Recommendation. The LAO recommends against the creation of a new volunteerism agency and instead finds that moving the CV program to the Department of Housing and Community Development is an option. With regard to the proposed trailer bill language to establish the CV fund, the LAO recommends that the proposal be rejected. In the event that CV receives such donation offers, the LAO notes 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 and may receive cash and other contributions.

Staff Comment. Given the prior staff recommendation to DENY the Governor’s request to eliminate OPR, staff recommends a conforming action to deny this request since CV can continue to reside within OPR. Staff concurs with the LAO’s recommendation to reject the proposed trailer bill language to establish the CV fund.

Staff Recommendation: DENY the April Finance Letter and proposed trailer bill language to establish the California Agency on Service and Volunteering and the continuously appropriated CaliforniaVolunteers Fund in the State Treasury.

VOTE:

Issues Proposed for Discussion / Vote:**Issue 1 – Office of Public School Construction: Charter Schools Facilities Program (BCP #3)**

Governor's Request. The January Governor's Budget requests increased expenditure authority of \$242,000 (2006 State School Facilities Funds) and two redirected departmental vacancies in 2010-11 and ongoing to establish best practices and maintain the current level of service provided to charter schools and other parties associated with the Charter Schools Facilities Program (CSFP).

Background. The CSFP provides charter schools with access to state bond funds. Finalizing a CSFP project is a four- or five-year process during which time the charter schools contact the Office of Public School Construction with questions and to seek further direction. The resources in this request are proposed to be dedicated solely to the workload of the CSFP. Currently the program is only achieving a 47 percent success rate (based on the number of projects that have gone on to complete construction of a new school). The Administration indicates that the positions in this request, funded from the bonds that are designated for construction of charter schools, are intended to increase that success rate, thereby leading to more schools being constructed.

Staff Comment. The most recent voter-approved education bond was Proposition 1D (November 2006), which provided \$10.416 billion for K-12 and higher education facilities. Prop 1D funds are anticipated to be depleted by early summer 2010. As of the March 2010 State Allocation Board meeting, only \$18 million remains for allocation; \$217 million remains for new construction. Given this dwindling balance of school construction bond funds, and the current lack of any plan for a new general obligation bond for school construction to be placed before the voters, the logic of authorizing new positions and increased expenditure authority as presented in this request is unclear to staff. A more prudent course of action would be for this request to be resubmitted when new revenue for school construction has been approved.

Staff Recommendation. DENY BCP#3.

VOTE:

Issue 2 – Office of Public School Construction: Information Technology (BCP #4)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$120,000 (2006 State School Facilities Funds) in 2010-11 and one two-year limited-term position redirected from departmental vacancies to develop, implement, and maintain automated systems necessary for the Office of Public School Construction (OPSC) to administer the School Facility Program and to ensure proper bond accountability.

Staff Comment. Identical to the staff comment on the prior OPSC issue, staff questions the timing of this request in light of the dwindling availability of school construction bond funds. As noted above, the logic of authorizing increased expenditure authority and a new position, even if it is limited-term, is unclear given that current school construction bond funds are anticipated to be depleted this summer and there is a lack of any plan for a new general obligation bond for school facilities to be placed before the voters. Rather, working within existing authorized positions and expenditure authority, OPSC should be able to identify resources to provide for proper bond accountability.

Staff Recommendation. DENY BCP #4.

VOTE:

Issue 3 – Division of the State Architect Provisional Language

This request was heard on March 11, 2010, and “held open” pending receipt of additional information from the Administration.

Governor’s Request. The January Governor’s Budget 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.” When the Subcommittee heard this request on March 11, concerns were raised about whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring. In addition, the Subcommittee questioned DSA about complaints from the field, particularly from K-12 schools, about delays in its plan review process. At that time, DSA testified it would provide regular monthly updates about its “bin time,” which they indicated was now below six weeks. In addition, DSA indicated it was creating a Performance Metrics Unit, which would in turn

create a scorecard posted to its website that would provide regular updates about the plan review process, including bin time. Since that hearing, DSA has failed to deliver on the draft performance metrics and scorecard; DSA now indicates that the draft metrics will not be available until July 2010.

Staff Comment. The performance issues with DSA are longstanding and complaints from the field are not new. The Subcommittee wants to see timely review and approval of construction ready school plans, but it has no real way to ascertain if DSA's current process and practice is efficient or effective because this is an entity that has heretofore been off budget. For example, how can the Legislature know that getting the "bin time" under six weeks is a sound practice and approach to workload? Yet, DSA is proposing to build its performance metrics on its current foundation. This calls into question the legitimacy of those performance metrics. Because of these issues, staff notes that the Subcommittee may wish to consider a different and potentially more appropriate next step – to request an independent entity undertake a performance audit of DSA's school plan review process. Then, with that baseline performance review information, the Subcommittee can determine with greater certainty the points where interventions make sense, as well as make necessary work process improvements and determine appropriate staffing levels for DSA.

With regard to the performance audit, staff notes that there is an obvious interest in accelerating the audit to begin in the current year. This is doable because DSA is currently off-budget and continuously appropriated and can therefore use current year funding to begin the audit immediately. Based on the initial discussions with DSA, DSA informed staff that that it had already set aside funding for a performance audit but that contract was subsequently suspended by DSA. In addition, the Office of State Audits and Evaluation (OSAE), within the Department of Finance, recently concluded a fiscal audit of DSA's Public School Planning, Design, and Construction Review Revolving Fund (the primary funding source for school plan reviews) which required a basic understanding of the program's operation and resources. Therefore, staff notes that using OSAE would be the most efficient approach for obtaining a performance audit in the near term.

Staff Recommendation.

1. APPROVE the proposed budget provisional language with the following amendments: (a) narrow the flexibility provided to DSA, (b) add a performance audit of DSA by the Office of State Audits and Evaluations, and (c) prohibit DSA from hiring further staff to monitor plan review workload and develop performance metrics for plan review workload until the audit is done; and,
2. ADOPT Supplemental Report Language to establish interim minimum monthly updates to the Legislature, LAO, and Department of Finance for DSA data until such time that the audit is complete and recommendations are implemented.

VOTE:

Issue 4 – State Capitol Repairs

Governor's Request. The January Governor's budget requests a reduction of \$5.4 million General Fund in the Department of General Services' (DGS) budget to reflect that DGS would no longer fund the cost of Capitol repairs and maintenance. Rather, while DGS would still coordinate these activities, the cost of Capitol repairs and maintenance would be funded by the Legislature's budget. The 2009-10 Budget suspended \$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 was published detailing a list of needed repairs to the building including fire/life/safety and other critical repair and maintenance. Capitol repair and maintenance items generally are programmed after consultation between the Legislature's Joint Rules Committee and DGS. A very rough estimate of outstanding needed repairs is \$100 million. The remaining balance of appropriated funds, available for expenditure in 2010-11, totals \$9.3 million.

Staff Comments. With regard to the transfer of responsibility to the Legislature's budget, staff notes that this is proposed as a permanent action. However, it is difficult at best for the Joint Rules Committee to determine if this is the appropriate course of action, as there are many unknowns with the future costs in this item. Additionally, it is reasonable to ask why the proposed cost of these repairs is not borne by all of the current tenants of the Capitol building; this request would shift the costs completely to the Legislature's budget.

Due to the fact that \$9.3 million remains from prior years' appropriations for Capitol repairs, staff notes that there is no need to appropriate new funding in 2010-11 for Capitol repairs. Therefore, the \$5.4 million reduction to DGS' budget can stand, maintaining the GF savings in the Governor's January Budget. With regard to project expenditures in 2010-11, the Joint Rules Committee, cognizant of the fiscal challenges facing the state, has determined that \$2 million of the remaining \$9.3 million can be transferred to the General Fund for additional savings in 2010-11. Finally, to avoid any further confusion as to what is available for expenditure, for what projects, etc., staff recommends the Subcommittee also approve budget provisional language that makes expenditure of the \$7.3 million on Capitol Repairs contingent on the approval of the Joint Rules Committee.

Staff Recommendation: DENY the Governor's request to transfer from DGS to the Legislature permanent responsibility for Capitol building repairs and maintenance but sustain the \$5.4 million General Fund reduction to DGS' budget in 2010-11. Additionally, APPROVE the reversion of \$2 million in additional GF savings in 2010-11 and APPROVE budget provisional language regarding budgeting for future capitol repairs.

VOTE:

Issues Proposed for Discussion / Vote:**Issue 1 – Convert Funding to Fee-for-Service Model**

On February 10, 2010, this request was heard before the Senate Budget Committee in the 8th Extraordinary Special Session. This request was not adopted and the Special Session has since been adjourned.

Governor's Request. The January Governor's Budget requests to shift the Office of Administrative Law (OAL) to a fee-for-service model in which OAL would directly bill regulation-issuing departments for its costs. OAL's existing appropriations of \$1.7 million General Fund and \$1.1 million Central Service Cost Recovery Fund would be eliminated and OAL would instead receive a \$2.8 million appropriation from the newly created Regulatory Oversight Revolving Fund. The Governor's May Revision continues to propose shifting OAL to a fee-for-service model, but in order to provide administrative, fiscal, and accounting support, OAL would be moved to the State and Consumer Services Agency (SCSA) effective January 1, 2011. Proposed budget provisional and trailer bill language would make the necessary statutory changes related to this request.

Background. The new OAL funding model is modeled after DOJ's Legal Services Revolving Fund. Departments utilizing OAL will be expected to absorb the costs associated with the fee-for-service model. In FY 2008-09, the most frequent users of OAL were: the California Department of Corrections and Rehabilitation, Departments of Consumer Affairs, Food and Agriculture, Fish and Game, Industrial Relations, the California Air Resources Board, and the Water Resources Control Board.

LAO Recommendation. The LAO finds that the Governor's proposal to link the specific activities of OAL to the departments promulgating regulations has merit, as it would better link the activities to the funding and should help reduce GF costs. Therefore, the LAO continues to recommend that the Legislature approve the fee for service approach but reject the proposed move to SCSA. The LAO does not think the move is necessary and creates a potential conflict of interest. Instead, the LAO suggests that OAL secure an interagency agreement for financial services with a state department, such as SCSA or perhaps the Department of General Services that presently supports departments.

Staff Comment. Staff generally agrees with the LAO's finding that linking the specific activities of OAL to the departments promulgating regulations has merit. However, because the proposal does not propose new funding for OAL's users, which would translate to these departments absorbing the costs associated with the fee-for-service model, staff notes that this could potentially create a financial disincentive resulting in delays in the regulation adoption process and an increase in underground regulations.

Staff Recommendation. DENY the request and proposed trailer bill language to shift the Office of Administrative Law to a fee-for-service model; including a conforming action to DENY May Revision request to move OAL to State and Consumer Services Agency.

VOTE:

Issue 2 – 2010-11 Budget Adjustments for (1) AB 32 Workload; (2) Create Reimbursement Authority for Training; and (3) Data Center Rate Increases

Governor’s Budget. The January Governor's Budget requests \$273,000 (\$212,000 Regulatory Oversight Revolving Fund and \$61,000 Reimbursement Authority) and 1.5 positions to address AB 32 (California Global Warming Solutions Act of 2006) workload, convert training abatements to Reimbursement Authority, and cover increased Office of Technology costs.

Background. With regard to AB 32 Workload, AB 32 establishes a comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases. Among other requirements, the California Air Resource Board (ARB) has to report and verify greenhouse gas emissions, monitor and implement regulations to reduce emissions of gases that cause global warming, and adopt a statewide greenhouse gas emissions limit. ARB and other state agencies will have to engage in extensive rulemaking, requiring OAL review. In December 2008, the Air Resources Board adopted a Scoping Plan which provides the outline for actions to reduce California's greenhouse gas emissions. On August 10, 2009, ARB issued its Scoping Plan Measures Implementation Timeline. The timeline sets forth 73 specific regulatory measures to be taken by multiple state agencies. This request includes \$199,000 (Regulatory Oversight Revolving Fund), one full-time Staff Counsel III, and a .5 Legal Assistant to review and administer the technical and complex regulatory filings related to AB 32 mandates. The OAL reports that its current staffing level of 20 positions is not sufficient to handle this workload.

With regard to Converting Training Abatements to Reimbursements, the OAL provides training to state agencies on the state's regulatory process. Funds received for this training have historically been classified as abatements (negative expenditures). This request would treat these receipts as reimbursements in 2010-11, similar to how they are treated by other departments. In 2008-09, the OAL had \$61,000 in abatements resulting from training provided to other state agencies.

With regard to the Data Center Increase, this request includes \$13,000 (Regulatory Oversight Revolving Fund) to fund increased state data center costs.

Staff Comment. Staff notes that the funding method of this request depends on the Subcommittee’s action on Issue 1, which would convert OAL to a fee-for-service funding model. Staff also notes, however, that the workload in this request is legitimate and raises no concerns with this request.

Staff Recommendation. APPROVE the BCP with the understanding that it will be revised to provide funding under the current method by which OAL is funded.

VOTE:

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 20, 2010
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

MAY REVISE AND "OPEN ISSUES" HEARING PART A

OUTCOMES

Item Number and Title

0502 Office of the State Chief Information Officer
0650 Office of Planning and Research
0596 California Agency on Service and Volunteering
0840 State Controller's Office
1760 Department of General Services
2240 Department of Housing and Community Development
8910 Office of Administrative Law

Control Section 4.75 Statewide Surcharge

(Please see detailed agendas on pages 2 and 3 for a 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 – VOTE ONLY ITEMS

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Issues Proposed for Vote Only:

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
Office of the State Chief Information Officer (0520)				
1	Sacramento Public Safety Communications Decentralization Project	\$3,268,000 (one-time)	Technology Services Revolving Fund	APPROVE
State Controller's Office (0840)				
1	Motor Vehicle Fuel Storage Tax	\$100,000	Motor Vehicle Fuel Fund	APPROVE
Department of General Services (1760)				
1	Various Lease-Revenue Bond Debt Service Adjustments	\$4,587,000 \$10,657,000	General Fund Other Funds	APPROVE
Department of Housing and Community Development (2240)				
1	Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities to Implement AB 32	\$54,000	Air Pollution Control Fund	CONFORM with Subcommittee No. 2's action on the AB 32 Package
Statewide Surcharge (Control Section 4.75)				
1	Statewide Surcharge	n/a	n/a	APPROVE

VOTE: All Items approved 3-0 except for Item 2240 Housing and Community Development Climate Change/AB 32 which was approved by a 2-1 vote with Harman voting no.

VOTE ONLY ITEMS – ISSUE DESCRIPTIONS

Office of the State Chief Information Officer (0502)

Issue 1 – Sacramento Public Safety Communications Decentralization Project

Governor’s Request. The Governor’s May Revision requests one-time increased expenditure authority of \$3.268 million (Technology Services Revolving Fund) in 2010-11 for the purchase or replacement of public safety equipment for existing communications towers which are part of the Sacramento Public Safety Communications Decentralization Project (Project). The Project will relocate a “communications ring” from the top floor of the Resources Building in Sacramento to various outlying sites in northern California. The Project costs for equipment expenditures in this request will be recovered through current established user rates.

Staff Comment. This request complements a May 1 Finance Letter Capital Outlay request to reappropriate \$3.2 million (variety of bond and special funds) for working drawings on the Project that was approved by this Subcommittee on May 13. Approval of this one-time expenditure authority will allow continuation and completion of this critical public safety communications project.

Staff Recommendation. APPROVE.

State Controller’s Office (0840)

Issue 1 – Motor Vehicle Fuel Storage Tax

Governor’s Request. The Governor’s May Revision requests one-time increased expenditure of \$100,000 (Motor Vehicle Fuel Fund) in 2010-11 to support one one-year limited term position to address the additional workload associated with the Chapter 11, Statutes of 2009-10 8th Extraordinary Session (ABX8 6).

Background. Chapter 11 added a new motor vehicle fuel storage tax. The Board of Equalization has requested additional assistance from the State Controller’s Office (SCO) to provide accounting services for implementation of this new tax. The limited term position in this request will be performing the accounts receivable set up for the new motor vehicle fuel storage tax accounts. There will be ongoing collection activities for some of the accounts, but the SCO indicates that existing collection staff will absorb that workload.

Staff Recommendation. APPROVE.

Department of General Services (1760)

Issue 1 – Lease-Revenue Bond Debt Service Adjustments

Governor's Request. The Governor's May Revision requests increased expenditure authority of \$4.587 million General Fund and \$10.657 million in other funds in 2010-11 to pay for the lease-revenue bonds that were sold to finance the Department of General Services, Central Plant Renovation Project.

Staff Comment. The state sold lease-revenue bonds in the fall of 2009 to finance the construction phase of this project which provides heating and cooling to 23 state office buildings in downtown Sacramento, including the State Capitol. In essence, this request makes various technical corrections for the payment of lease-revenue debt in 2010-11. Upon enactment of the budget, an executive order will be processed per Control Section 4.30 to allocate the adjustments to the various departments that occupy the 23 state office buildings which receive heating and cooling from and therefore benefit from the operations and maintenance of the Central Plant.

Staff Recommendation. APPROVE.

Department of Housing and Community Development (2240)

Issue 1 – Climate Change and Regional Housing Needs Allocation and State Housing Element Law Activities to Implement AB 32 (BCP #2)

Governor's Request. The January Governor's budget requests increased expenditure authority of \$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; Statutes 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. AB 32 authorized the Air Resources Board to adopt, by regulation, a schedule of fees to be paid by sources of green house gas emissions into the Air Pollution Control Fund to support the administrative costs of implementing AB 32.

Staff Comments. When this item was first heard on March 11, 2010, staff noted no concerns with this request, as there is legitimate increased workload for HCD related to the implementation of AB 32. However, much larger state operations cost issues relative to the implementation of AB 32 were pending before Subcommittee No. 2 on

Resources. This Subcommittee held this request open to allow time for Subcommittee No. 2 to consider those larger issues.

Staff Recommendation: CONFORM to Subcommittee No. 2's action on the larger AB 32 Package.

Statewide Surcharge (Control Section 4.75)

Governor's Request. The Governor's May Revision requests that Control Section 4.75 be added to provide authority to the Department of Finance to make adjustments to the Statewide Surcharge amounts in departmental appropriations for 2010-11.

Background. The Statewide Surcharge was established in 2005 to provide a method for the Department of General Services to recover costs for central services, such as maintenance and operation of Capitol Park and legislative printing. The Surcharge is based on the total number of positions authorized for an affected department. The Statewide Surcharge has not been reallocated since initial implementation. Given that many departments have had significant changes in the numbers of authorized personnel, there is a need to adjust departments' share of the Statewide Surcharge.

Staff Comment. The Administration indicates that its intent in implementing this Control Section would be to not result in any General Fund increases. Because the Statewide Surcharge has not been reallocated since implementation, the Administration projects a shortage in 2009-10 of \$2.44 million. If this request is not approved, the disparity will continue, with several state entities continuing to generate savings due to an incorrect budget as others will be disproportionately assessed the surcharge.

Staff Recommendation. APPROVE.

*Issue Proposed for Discussion / Vote:***Issue 1 – Infill Infrastructure Grant Funding Availability**

Background. The Infill Infrastructure Grant Program (IIG) funds infrastructure improvements to facilitate new housing development in residential or mixed use infill projects and infill areas. Beginning in 2007-08, and continuing through 2009-10, the IIG funds have been appropriated by Housing and Community Development (HCD) to qualifying projects. HCD has also set aside the necessary funds for long-term monitoring, which will begin in 2012-13. HCD indicates that there is currently \$9.275 million remaining available for expenditure in the IIG Program. The funds are a result of: (1) salary savings due to the early adoption of the 2009-10 Budget which allowed HCD to combine award cycles; and (2) administrative cost savings due to the fact that there was an inadvertent double count on the \$60 million of IIG Funds that were transferred to the California Recycle Underutilized Sites (CALReUSE) Program, which is administered by the California Pollution Control Financing Authority.

Staff Comment. Staff finds that the remaining \$9.275 million in IIG funds should be utilized to provide funding to three IIG projects in Round 1 that did not receive full funding: (1) Francher Creek Properties, Fresno (received 80 percent; \$528,396 outstanding); (2) Township 9, Sacramento (received 50 percent; \$10.9 million outstanding); and (3) The Grand, Los Angeles (received 80 percent, \$2.9 million outstanding). Staff notes that the outstanding amount for these three projects totals \$14.3 million, which is more than the \$9.275 million remaining. HCD indicates it would utilize a proportional allotment to get these three projects closer to full funding. Finally, staff notes that this approach will require an appropriation as well as budget bill language to authorize HCD to utilize the prior Notification of Funding Availability. This is required because unlike most of the Proposition 1C-funded programs (e.g., Multifamily Housing, CalHOME, and Serna Farmworker Housing) the IIG program requires a budget act appropriation. The \$9.275 million in remaining IIG funds has never been appropriated and has been part of the reserve.

Staff Recommendation. APPROVE budget bill language to appropriate the remaining \$9.2 Infill Infrastructure Grant Program funds and authorize HCD to allocate the funding to the three IIG projects that did not receive full funding in Round 1.

VOTE: Approved 3-0.

*Issue Proposed for Discussion / Vote:***Issue 1 – Eliminate Office of Planning and Research (April Finance Letter)**

Governor’s Request. The Governor requests to eliminate the Office of Planning and Research (OPR), retaining 57.1 positions in new locations and eliminating 33.9 positions, generating \$571,000 (General Fund) in savings. The Administration is also proposing the establishment of the California Agency on Service and Volunteering (discussed next in this agenda) as well as trailer bill language to make necessary changes to statute to reflect the elimination of OPR.

LAO Recommendation. The LAO has long recommended eliminating 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 that lay out statewide planning and land use coordination and state environmental policy report functions. Finally, the LAO notes that several policy bills seek to modify or expand OPR's role in such areas as environmental and land use planning. In light of this legislative policy interest, some have expressed doubt that now is the time to eliminate OPR. If the Legislature chooses to reject the Governor's elimination proposal, it may still achieve the GF savings scored by the Administration by eliminating several positions, such as those that now provide enrolled bill and policy analyses for the Governor's Office, consistent with parts of the Administration's proposal or LAO recommendations related to OPR and the California Agency on Service and Volunteering (CASV). If OPR is continued, however, some of the positions targeted for elimination in the Administration's proposal may need to be continued to perform administrative and financial functions for OPR.

Specifically, under the approach to retain OPR but still achieve GF savings, the LAO suggests that one possibility would be for the Legislature to continue OPR (including CaliforniaVolunteers) and keep within the office the: (1) two staff analyst positions now proposed to be moved to OPR (already paid for within the Governor's CASV budget) and (2) a staff analyst position and the administrative assistant I and office assistant I positions (with combined salary, benefit, and operating expense costs identified at \$242,505) now targeted for elimination from OPR's administration unit. To offset the additional costs of approximately \$240,000 resulting from these actions to retain administrative positions, the Legislature could eliminate some or all of the additional positions in OPR that the LAO has proposed for elimination. A Department of Finance document identifies the combined salary, benefit, and operating expense costs of each of those positions as follows:

- Assistant to the Governor in the OPR Legislative Analysis Unit proposed to be transferred to Housing and Community Development (\$130,000 General Fund).
- Staff IPA in the OPR Legislative Analysis Unit proposed to be transferred to State and Consumer Services Agency (\$83,000 General Fund and \$16,000 other funds).
- The two information technology staff positions proposed to be moved to the Governor's Office (\$213,000 General Fund and \$41,000 other funds).

- The Small Business Advocate and an assistant from the OPR Small Business Advocate Unit (\$206,000 General Fund and \$39,000 other funds) proposed to be transferred to the Business, Transportation, and Housing Agency.

Staff Comment. Given the number of policy bills pertaining to OPR, as well as the fact that there will be a change in Administration at the end of this year, staff notes that now is not perhaps the time to eliminate OPR. However, staff concurs with the LAO's recommendation that there is an opportunity to produce some GF savings by reducing staffing levels within OPR even if the office is not eliminated.

Staff Recommendation. DENY the Governor's request to eliminate the Office of Planning and Research, as well as the request to create the California Agency on Service and Volunteering (discussed next in this agenda). This action maintains the CEQA clearinghouse and environmental planning and coordination functions in OPR, as well as the CaliforniaVolunteers program. With technical details to be worked out with staff and Department of Finance, ELIMINATE a total of 30.9 positions for General Fund savings of \$544,000, as follows:

1. Eliminate the 33.9 OPR positions as proposed by the Governor except for the following five administrative positions: three staff analyst positions, one administrative assistant position, and one office assistant position, all which currently provide administrative and financial support to OPR.
2. Eliminate the following two positions as identified on the LAO's list above: (1) Assistant to the Governor in the OPR Legislative Analysis Unit proposed to be transferred to Housing and Community Development (\$130,000 General Fund) and (2) Staff IPA in the OPR Legislative Analysis Unit proposed to be transferred to the State and Consumer Services Agency (\$83,000 General Fund and \$16,000 other funds).

VOTE: Approved 3-0.

*Issue Proposed for Discussion/Vote:***Issue 1 – Establish CaliforniaVolunteers as the California Agency on Service and Volunteering (April Finance Letter)**

Governor’s Budget. In light of the Governor’s proposal to eliminate the Office of Planning and Research (OPR), the Governor requests to establish the California Agency on Service and Volunteering (CASV) as the new home for the CaliforniaVolunteers (CV) Program and provide the CASV with 41.4 authorized positions and \$34.2 million (\$1 million General Fund, \$30.1 million federal funds, and \$3.1 million reimbursements). This request includes proposed trailer bill language to establish both CASV and the CaliforniaVolunteers Fund (CV Fund) in statute.

Background. The CaliforniaVolunteers program has existed within the Governor’s Office since 1994, albeit with different names depending on the Administration, with the primary function of administering the federal AmeriCorps and other community service programs in California. The CV program is currently housed within OPR.

LAO Recommendation. The LAO recommends against the creation of a new volunteerism agency and instead finds that moving the CV program to the Department of Housing and Community Development is an option. With regard to the proposed trailer bill language to establish the CV fund, the LAO recommends that the proposal be rejected. In the event that CV receives such donation offers, the LAO notes 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 and may receive cash and other contributions.

Staff Comment. Given the prior staff recommendation to DENY the Governor’s request to eliminate OPR, staff recommends a conforming action to deny this request since CV can continue to reside within OPR. Staff concurs with the LAO’s recommendation to reject the proposed trailer bill language to establish the CV fund.

Staff Recommendation: DENY the April Finance Letter and proposed trailer bill language to establish the California Agency on Service and Volunteering and the continuously appropriated CaliforniaVolunteers Fund in the State Treasury.

VOTE: Approved 3-0.

*Issues Proposed for Discussion / Vote:***Issue 1 – Office of Public School Construction: Charter Schools Facilities Program (BCP #3)**

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$242,000 (2006 State School Facilities Funds) and two redirected departmental vacancies in 2010-11 and ongoing to establish best practices and maintain the current level of service provided to charter schools and other parties associated with the Charter Schools Facilities Program (CSFP).

Background. The CSFP provides charter schools with access to state bond funds. Finalizing a CSFP project is a four- or five-year process during which time the charter schools contact the Office of Public School Construction with questions and to seek further direction. The resources in this request are proposed to be dedicated solely to the workload of the CSFP. Currently the program is only achieving a 47 percent success rate (based on the number of projects that have gone on to complete construction of a new school). The Administration indicates that the positions in this request, funded from the bonds that are designated for construction of charter schools, are intended to increase that success rate, thereby leading to more schools being constructed.

Staff Comment. The most recent voter-approved education bond was Proposition 1D (November 2006), which provided \$10.416 billion for K-12 and higher education facilities. Prop 1D funds are anticipated to be depleted by early summer 2010. As of the March 2010 State Allocation Board meeting, only \$18 million remains for allocation; \$217 million remains for new construction. Given this dwindling balance of school construction bond funds, and the current lack of any plan for a new general obligation bond for school construction to be placed before the voters, the logic of authorizing new positions and increased expenditure authority as presented in this request is unclear to staff. A more prudent course of action would be for this request to be resubmitted when new revenue for school construction has been approved.

Staff Recommendation. DENY BCP#3.

VOTE: Approved 3-0.

Issue 2 – Office of Public School Construction: Information Technology (BCP #4)

Governor’s Request. The January Governor’s Budget requests increased expenditure authority of \$120,000 (2006 State School Facilities Funds) in 2010-11 and one two-year limited-term position redirected from departmental vacancies to develop, implement, and maintain automated systems necessary for the Office of Public School Construction (OPSC) to administer the School Facility Program and to ensure proper bond accountability.

Staff Comment. Identical to the staff comment on the prior OPSC issue, staff questions the timing of this request in light of the dwindling availability of school construction bond funds. As noted above, the logic of authorizing increased expenditure authority and a new position, even if it is limited-term, is unclear given that current school construction bond funds are anticipated to be depleted this summer and there is a lack of any plan for a new general obligation bond for school facilities to be placed before the voters. Rather, working within existing authorized positions and expenditure authority, OPSC should be able to identify resources to provide for proper bond accountability.

Staff Recommendation. DENY BCP #4.

VOTE: Approved 3-0.

Issue 3 – Division of the State Architect Provisional Language

This request was heard on March 11, 2010, and “held open” pending receipt of additional information from the Administration.

Governor’s Request. The January Governor’s Budget 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.” When the Subcommittee heard this request on March 11, concerns were raised about whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring. In addition, the Subcommittee questioned DSA about complaints from the field, particularly from K-12 schools, about delays in its plan review process. At that time, DSA testified it would provide regular monthly updates about its “bin time,” which they indicated was now below six weeks. In addition, DSA indicated it was creating a Performance Metrics Unit, which would in turn

create a scorecard posted to its website that would provide regular updates about the plan review process, including bin time. Since that hearing, DSA has failed to deliver on the draft performance metrics and scorecard; DSA now indicates that the draft metrics will not be available until July 2010.

Staff Comment. The performance issues with DSA are longstanding and complaints from the field are not new. The Subcommittee wants to see timely review and approval of construction ready school plans, but it has no real way to ascertain if DSA's current process and practice is efficient or effective because this is an entity that has heretofore been off budget. For example, how can the Legislature know that getting the "bin time" under six weeks is a sound practice and approach to workload? Yet, DSA is proposing to build its performance metrics on its current foundation. This calls into question the legitimacy of those performance metrics. Because of these issues, staff notes that the Subcommittee may wish to consider a different and potentially more appropriate next step – to request an independent entity undertake a performance audit of DSA's school plan review process. Then, with that baseline performance review information, the Subcommittee can determine with greater certainty the points where interventions make sense, as well as make necessary work process improvements and determine appropriate staffing levels for DSA.

With regard to the performance audit, staff notes that there is an obvious interest in accelerating the audit to begin in the current year. This is doable because DSA is currently off-budget and continuously appropriated and can therefore use current year funding to begin the audit immediately. Based on the initial discussions with DSA, DSA informed staff that that it had already set aside funding for a performance audit but that contract was subsequently suspended by DSA. In addition, the Office of State Audits and Evaluation (OSAE), within the Department of Finance, recently concluded a fiscal audit of DSA's Public School Planning, Design, and Construction Review Revolving Fund (the primary funding source for school plan reviews) which required a basic understanding of the program's operation and resources. Therefore, staff notes that using OSAE would be the most efficient approach for obtaining a performance audit in the near term.

Staff Recommendation.

1. APPROVE the proposed budget provisional language with the following amendments: (a) narrow the flexibility provided to DSA, (b) add a performance audit of DSA by the Office of State Audits and Evaluations, and (c) prohibit DSA from hiring further staff to monitor plan review workload and develop performance metrics for plan review workload until the audit is done; and,
2. ADOPT Supplemental Report Language to establish interim minimum monthly updates to the Legislature, LAO, and Department of Finance for DSA data until such time that the audit is complete and recommendations are implemented.

VOTE: Approved 3-0.

Issue 4 – State Capitol Repairs

Governor’s Request. The January Governor’s budget requests a reduction of \$5.4 million General Fund in the Department of General Services’ (DGS) budget to reflect that DGS would no longer fund the cost of Capitol repairs and maintenance. Rather, while DGS would still coordinate these activities, the cost of Capitol repairs and maintenance would be funded by the Legislature’s budget. The 2009-10 Budget suspended \$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 was published detailing a list of needed repairs to the building including fire/life/safety and other critical repair and maintenance. Capitol repair and maintenance items generally are programmed after consultation between the Legislature’s Joint Rules Committee and DGS. A very rough estimate of outstanding needed repairs is \$100 million. The remaining balance of appropriated funds, available for expenditure in 2010-11, totals \$9.3 million.

Staff Comments. With regard to the transfer of responsibility to the Legislature’s budget, staff notes that this is proposed as a permanent action. However, it is difficult at best for the Joint Rules Committee to determine if this is the appropriate course of action, as there are many unknowns with the future costs in this item. Additionally, it is reasonable to ask why the proposed cost of these repairs is not borne by all of the current tenants of the Capitol building; this request would shift the costs completely to the Legislature’s budget.

Due to the fact that \$9.3 million remains from prior years’ appropriations for Capitol repairs, staff notes that there is no need to appropriate new funding in 2010-11 for Capitol repairs. Therefore, the \$5.4 million reduction to DGS’ budget can stand, maintaining the GF savings in the Governor’s January Budget. With regard to project expenditures in 2010-11, the Joint Rules Committee, cognizant of the fiscal challenges facing the state, has determined that \$2 million of the remaining \$9.3 million can be transferred to the General Fund for additional savings in 2010-11. Finally, to avoid any further confusion as to what is available for expenditure, for what projects, etc., staff recommends the Subcommittee also approve budget provisional language that makes expenditure of the \$7.3 million on Capitol Repairs contingent on the approval of the Joint Rules Committee.

Staff Recommendation: DENY the Governor’s request to transfer from DGS to the Legislature permanent responsibility for Capitol building repairs and maintenance but sustain the \$5.4 million General Fund reduction to DGS’ budget in 2010-11. Additionally, APPROVE the reversion of \$2 million in additional GF savings in 2010-11 and APPROVE budget provisional language regarding budgeting for future capitol repairs.

VOTE: Approved 3-0.

Issues Proposed for Discussion / Vote:**Issue 1 – Convert Funding to Fee-for-Service Model**

On February 10, 2010, this request was heard before the Senate Budget Committee in the 8th Extraordinary Special Session. This request was not adopted and the Special Session has since been adjourned.

Governor's Request. The January Governor's Budget requests to shift the Office of Administrative Law (OAL) to a fee-for-service model in which OAL would directly bill regulation-issuing departments for its costs. OAL's existing appropriations of \$1.7 million General Fund and \$1.1 million Central Service Cost Recovery Fund would be eliminated and OAL would instead receive a \$2.8 million appropriation from the newly created Regulatory Oversight Revolving Fund. The Governor's May Revision continues to propose shifting OAL to a fee-for-service model, but in order to provide administrative, fiscal, and accounting support, OAL would be moved to the State and Consumer Services Agency (SCSA) effective January 1, 2011. Proposed budget provisional and trailer bill language would make the necessary statutory changes related to this request.

Background. The new OAL funding model is modeled after DOJ's Legal Services Revolving Fund. Departments utilizing OAL will be expected to absorb the costs associated with the fee-for-service model. In FY 2008-09, the most frequent users of OAL were: the California Department of Corrections and Rehabilitation, Departments of Consumer Affairs, Food and Agriculture, Fish and Game, Industrial Relations, the California Air Resources Board, and the Water Resources Control Board.

LAO Recommendation. The LAO finds that the Governor's proposal to link the specific activities of OAL to the departments promulgating regulations has merit, as it would better link the activities to the funding and should help reduce GF costs. Therefore, the LAO continues to recommend that the Legislature approve the fee for service approach but reject the proposed move to SCSA. The LAO does not think the move is necessary and creates a potential conflict of interest. Instead, the LAO suggests that OAL secure an interagency agreement for financial services with a state department, such as SCSA or perhaps the Department of General Services that presently supports departments.

Staff Comment. Staff generally agrees with the LAO's finding that linking the specific activities of OAL to the departments promulgating regulations has merit. However, because the proposal does not propose new funding for OAL's users, which would translate to these departments absorbing the costs associated with the fee-for-service model, staff notes that this could potentially create a financial disincentive resulting in delays in the regulation adoption process and an increase in underground regulations.

Staff Recommendation. DENY the request and proposed trailer bill language to shift the Office of Administrative Law to a fee-for-service model; including a conforming action to DENY May Revision request to move OAL to State and Consumer Services Agency.

VOTE: Approved 3-0.

Issue 2 – 2010-11 Budget Adjustments for (1) AB 32 Workload; (2) Create Reimbursement Authority for Training; and (3) Data Center Rate Increases

Governor’s Budget. The January Governor's Budget requests \$273,000 (\$212,000 Regulatory Oversight Revolving Fund and \$61,000 Reimbursement Authority) and 1.5 positions to address AB 32 (California Global Warming Solutions Act of 2006) workload, convert training abatements to Reimbursement Authority, and cover increased Office of Technology costs.

Background. With regard to AB 32 Workload, AB 32 establishes a comprehensive program of regulatory and market mechanisms to achieve real, quantifiable, cost-effective reductions of greenhouse gases. Among other requirements, the California Air Resource Board (ARB) has to report and verify greenhouse gas emissions, monitor and implement regulations to reduce emissions of gases that cause global warming, and adopt a statewide greenhouse gas emissions limit. ARB and other state agencies will have to engage in extensive rulemaking, requiring OAL review. In December 2008, the Air Resources Board adopted a Scoping Plan which provides the outline for actions to reduce California's greenhouse gas emissions. On August 10, 2009, ARB issued its Scoping Plan Measures Implementation Timeline. The timeline sets forth 73 specific regulatory measures to be taken by multiple state agencies. This request includes \$199,000 (Regulatory Oversight Revolving Fund), one full-time Staff Counsel III, and a .5 Legal Assistant to review and administer the technical and complex regulatory filings related to AB 32 mandates. The OAL reports that its current staffing level of 20 positions is not sufficient to handle this workload.

With regard to Converting Training Abatements to Reimbursements, the OAL provides training to state agencies on the state's regulatory process. Funds received for this training have historically been classified as abatements (negative expenditures). This request would treat these receipts as reimbursements in 2010-11, similar to how they are treated by other departments. In 2008-09, the OAL had \$61,000 in abatements resulting from training provided to other state agencies.

With regard to the Data Center Increase, this request includes \$13,000 (Regulatory Oversight Revolving Fund) to fund increased state data center costs.

Staff Comment. Staff notes that the funding method of this request depends on the Subcommittee’s action on Issue 1, which would convert OAL to a fee-for-service funding model. Staff also notes, however, that the workload in this request is legitimate and raises no concerns with this request.

Staff Recommendation. APPROVE the BCP with the understanding that it will be revised to provide funding under the current method by which OAL is funded.

VOTE: Approved 2-1 with Harman voting no.

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 20, 2010
9:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

May Revision and Open Issues Part B

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5225 California Department of Corrections and Rehabilitation.....	6

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
Judicial Branch (0250)				
1	Sacramento Courthouse reversion	\$0	Immediate and Critical Needs Account	Approve
2	Collections trailer bill language	\$0	Trailer Bill Language	Approve
Department of Justice (0820)				
1	DNA ID Fund – current year reversion	-\$13,667,000	General Fund	Approve
California Department of Corrections and Rehabilitation (5225)				
1	DVI Electrical power substation – reappropriation	\$1,264,000	General Fund	Approve
2	CMC wastewater collection treatment upgrade – reappropriation	\$0	Public Buildings Construction Fund	Approve
3	Minor Projects - Farrell litigation - liquidation	\$0	General Fund	Approve
4	CRC install bar screen - reversion	\$0	General Fund	Approve
5	SVSP mental health reversion	\$0	General Fund	Approve
6	CIM solid cell fronts - reappropriation	\$2,274,000	General Fund	Approve
7	Statewide small management yards – reappropriation	\$278,000	General Fund	Approve

Vote Only Items – Issue Descriptions

Judicial Branch (0250)

Issue 1 – Sacramento Courthouse reversion

The Judicial Branch proposes a revision of the 35 courtroom Sacramento Criminal Courthouse project initially approved in FY 2009-10. The total project cost was estimated at \$509 million. The acquisition phase was approved, but the project scope has changed, necessitating this reversion. The Judicial Branch has submitted a revised request to the Joint Legislative Budget Committee for review. The revised proposal would provide for 44 courtrooms and is estimated to cost \$439 million.

Issue 2 – Collections Trailer Bill Proposal

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. Consequently, the AOC and CSAC have developed a package of proposals intended to achieve this objective. The package was presented to the committee on May 6th. It includes proposals to allow the state to collect from cash payments for unclaimed property to offset court ordered debt, requirements that courts and counties meet specified criteria to have comprehensive court collections programs, allow more court flexibility to allow lower initial payments on installment plans for court-ordered debt, discharge courts and counties from the responsibility to collect debt if the amount is too small to justify the expense of collection (this does not change the liability of people to pay their debt), and provide a one-time amnesty program for existing debtors. Staff finds that, taken together, these proposals could improve local debt collection efforts. Staff has heard no concerns raised with respect to these proposals.

Department of Justice (0820)

Issue 1 – DNA ID Fund – Current Year Reversion

The administration proposes trailer bill language and a budget bill reversion item of \$13.7 million General Fund. These General Fund savings are achievable due to the passage of Chapter 3, Statutes of 2010, Eighth Extraordinary Session (AB 3) which allowed for an increase in the state penalty assessment to provide additional special fund revenues for the operation of the Department of Justice's forensic laboratories, offsetting the corresponding General Fund reduction for this program in 2010-11. Although this proposal was chaptered and went into effect in the current fiscal year, no savings had been scored. This proposal

would allow the state to offset General Fund expenditures in the current year to account for new revenues.

California Department of Corrections and Rehabilitation (5225)

Issue 1 – DVI Electrical Power Substation - reappropriation

Project delays for this project at the Deuel Vocational Institution (DVI – Tracy) necessitate a reappropriation of \$1.3 million General Fund for working drawings and construction. The schedule for this project has been delayed because it was determined during construction that additional transformer alarm system adjustments and utility equipment costs were necessary. The reappropriation will ensure that construction funds remain available to complete the project.

Issue 2 – CMC Wastewater Collection Treatment Upgrade - reappropriation

The administration requests a reappropriation of funds for this project at the California Men's Colony (CMC – San Luis Obispo). Construction has completed, but the closeout of the contract with the contractor was delayed because of change orders, compensation requests for schedule delays, and other monetary demands of the contractor. A formal claim was filed in 2009, and the contractor also sued the state. Because of this, a reappropriation is necessary to ensure funding remains available at the closeout of the contract when these issues are resolved.

Issue 3 – Minor Projects: Farrell Litigation - Liquidation

The administration requests that the payment schedule for this project be extended because construction will be completed in June 2010, but some project invoices will not be paid until the next fiscal year. The extension of liquidation will ensure payment of project construction costs.

Issue 4 – CRC Install Bar Screen - Reversion

This project has been terminated because a Memorandum of Agreement (MOA) between the city of Norco and CDCR transferred sewer and potable water services responsibilities at the California Rehabilitation Center (CRC – Norco) to the city. Therefore, pursuant to the MOA, the city will install and manage the proposed bar screen.

Issue 5 – SVSP Mental Health Services Building - Reversion

This project at Salinas Valley State Prison (SVSP – Soledad) to construct a new mental health services building has been terminated because CDCR has developed a new long-range mental health bed plan that no longer includes this project. Therefore, CDCR is no longer pursuing this project.

Issue 6 – CIM Solid Cell Fronts - Reappropriation

The purpose of this project is to replace existing 216 barred cell fronts and cell doors with solid cell fronts and doors in order to create safety and security of staff and inmates in the administrative segregation units at the California Institution for Men (CIM - Chino). Primary construction was completed in 2009, and a temporary certificate of occupancy was granted by the fire marshal. However, modifications to the fire alarm system still require completion in order to receive the final certificate of occupancy. These modifications will be completed in the budget year, requiring a reappropriation of the remaining \$2.3 million in construction funds for this project.

Issue 7 – Statewide Small Management Yards - Reappropriation

The purpose of this project is to design small management yards for Security Housing Units and Psychiatric Services Units at five prisons: Pelican Bay State Prison, California State Prison-Sacramento, California State Prison-Corcoran, California Correctional Institution, and Valley State Prison for Women. Small management yards are enclosed spaces designed to provide out-of-cell time for individual inmates in lock-up units who are otherwise unable to recreate in recreation yards with other inmates. Design work is expected to be completed in June with construction not expected to begin until 2011-12. The department is requesting reappropriation of the remaining \$278,000 in design appropriation for completion of the project and in case any design modifications are identified before construction begins.

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 – 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.

In previous years, the department’s funding authority ranged from \$400,000 to \$3 million with funding at about \$1 million annually most years from 2001-02 to 2006-07.

The committee has recently requested that the department provide information for the committee regarding the current staffing levels in headquarters, including for its Facility Planning, Construction, and Management Division. As discussed in last week’s subcommittee hearing, the department’s headquarters staffing levels have increased by 851 positions since the reorganization that created CDCR. (This includes the current year decrease of over 400 positions.) The Facility Planning Division has 391 positions which includes a growth of 112 new positions since the reorganization. Most of this position growth is associated specifically with implementing AB 900. The division is projected to expend \$30.1 million in the current year.

Staff Recommendation. Modify by providing \$1 million, and fund through the AB 900 General Fund appropriation as recommended by the LAO. This action will provide \$2 million General Fund savings, and the level of funding provided is consistent with amounts provided in earlier years. To the extent that the department has costs greater than \$1 million for this purpose, it can redirect existing resources in its facility planning division as necessary.

Issue 2 – 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. A current policy bill AB 2181 (Hagman) is moving through committees to cap minor capital outlay projects at \$600,000. This \$600,000 level is consistent with the level of inflation on construction costs since the existing \$400,000 cap was established.

Staff Recommendation. Modify budget bill language to cap the department’s capital outlay costs at \$600,000 rather than the \$800,000 proposed by the administration.

Approve all seven proposed projects but fund the six minor capital outlay projects under \$600,000 in costs using AB 900 General Fund appropriation as recommended by the LAO.

Approve the CMC Level II Fence Improvements project (\$682,000) as a major capital outlay project since it would be over the \$600,000 minor capital outlay cap but fund the project from the Prison Construction Bond Act of 1988 which has \$921,000 remaining undesignated balance.

These actions will result in \$3.2 million General Fund savings in the budget year.

Issue 3 – Options for Improving Budget Transparency and Accountability

Background. On March 23rd, the Senate and Assembly budget subcommittees with jurisdiction over the corrections budget held a joint hearing to discuss three legislative proposals designed to create more transparency and accountability in CDCR’s budget. At that time, the committees directed CDCR and staff to develop proposals to be considered by the subcommittees in early May.

On May 6th, this subcommittee heard the issue again. At that time, staff indicated that the proposed language needed to be considered by the committee was still being finalized. At that hearing, the committee directed staff to present formal proposals after the May Revision.

The general description of three proposals are described below.

- **Budget Act Programs.** One method of achieving increased visibility into and accountability of a budget is to increase the detail in the annual Budget Act. Specifically, the Legislature could break up the large 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.

- **Annual Report on Performance and Outcomes.** Another approach to increasing budget transparency and accountability is to require the department to present the Legislature with an annual report that details its performance and outcomes of key department programs. The structure of such a report could include the following characteristics: (1) focus on key outcome performance measures, (2) be linked to budget programs, (3) provide data on trends over multiple years, (4) establish department goals, and (5) be made publicly available on the department's website.
- **Inmate Population Budget Process.** A third approach would be to transform the way the department budgets for changes in the inmate population. Rather than using a blanket ratio of six to one to make population based adjustments, as is currently done, the CDCR could develop staffing 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 custody 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. Importantly, this approach would allow the department to cease using the Institution Activation Schedule - a population management tool - for the budgeting, a purpose for which it is ill-equipped and adds unnecessary complexity.

Staff Recommendation. Staff recommends that the committee adopt the following proposals consistent with committee direction in prior hearings.

- **Budget Act Programs.** Change Budget Act Item 5225-001-0001 from the current 12 budget programs to include the following 20 budget programs:
 - (1) Corrections and Rehabilitation Administration
 - (2) Corrections Standards Authority
 - (3) Juvenile Operations
 - (4) Juvenile Education, Vocations, and Offender Programs
 - (5) Juvenile Paroles
 - (6) Juvenile Health Care
 - (7) Adult Corrections and Rehabilitation Operations--Institution Administration
 - (8) Adult Corrections and Rehabilitation Operations--General Security
 - (9) Adult Corrections and Rehabilitation Operations--Security Overtime
 - (10) Adult Corrections and Rehabilitation Operations--Inmate Support
 - (11) Adult Corrections and Rehabilitation Operations--Contracted Facilities
 - (12) Parole Operations--Adult--Administration
 - (13) Parole Operations--Adult--Supervision
 - (14) Parole Operations--Adult--Community Based Programs
 - (15) Board of Parole Hearings--Administration
 - (16) Board of Parole Hearings--Adult Hearings
 - (17) Education, Vocations, and Offender Programs--Adult--Administration
 - (18) Education, Vocations, and Offender Programs--Adult--Education
 - (19) Education, Vocations, and Offender Programs--Adult--Substance Abuse Program
 - (20) Education, Vocations, and Offender Programs--Adult--Inmate Activities

This proposal provides a greater level of detail with respect to the budget authority for major areas of CDCR operations, specifically prison operations, adult parole, and offender programs. In recommending greater budget detail, staff considered recommending even more budget programs to provide even greater level of detail. However, staff wanted to be cognizant that, at least in the short term, adding more budget programs adds additional accounting workload for CDCR and DOF. However, staff believes the proposed level of detail provides the Legislature with a reasonable level of detail without being unduly burdensome on the departments. The department has primarily raised concerns to staff about the inclusion of the security overtime budget program, arguing that its budgeting and accounting systems are going to present significant difficulties if this expenditure item is budgeted as proposed. Given that expenditures and spending deficiencies in this program are in the hundreds of millions of dollars annually, staff believes that it is appropriate to have a separate budget program for security overtime.

- **Annual Report on Performance and Outcomes.** Adopt the following trailer bill language (staff, administration, and LAO are continuing to work on developing the supplemental report language to identify the specific metrics):

(a) It is the intent of the Legislature that the Department of Corrections and Rehabilitation shall regularly provide to the Legislature information on the outcomes of department operations and activities to allow it to better assess the performance of the department, including to both evaluate the effectiveness of department programs and activities, as well as assess how efficiently the department is using state resources.

(b) No later than January 10 of each year, the Department of Corrections and Rehabilitation shall provide to the Joint Legislative Budget Committee an annual report on the outcomes of department operations and activities specified in the Supplemental Report of the annual budget act for that fiscal year. At minimum, for each performance measurement included, this report shall include data for the prior three fiscal years, as well as establish target performance goals for each measurement in the current fiscal year and in the department's long term strategic plan if included in the strategic plan. The department's annual report shall include an explanation for why it did not successfully achieve target performance goals in the prior year in those cases where that occurs. The Supplemental Report may identify changes in the reporting requirements. If no such changes are identified in the Supplemental Report, the reporting requirements shall be the same as those for the prior fiscal year.

(c) The department shall also post the full annual report required by this section on its public website.

- **Inmate Population Budget Process.** Adopt the following budget bill language.

5225-001-0001 - Provision X. The Legislature finds that the current process used by the California Department of Corrections and Rehabilitation (CDCR) to estimate the costs associated with projected changes in the inmate population is unnecessarily complex. This results in diminished transparency and public accountability for a process that frequently results in costs totaling tens or hundreds of millions of dollars

annually. The unnecessary complexity also results in inefficient and wasteful use of state staff resources to produce the related documents. Based on these findings, when submitting its budget proposals related to projected changes in the inmate population, the CDCR shall not base its proposal on a methodology that utilizes the Institution Activation Schedule. Instead, the department shall utilize a formula that includes a ratio of one staff position for every 5.6 inmates. The department shall further consider using a methodology that provides a greater proportion of the resulting staffing resources to those institutions housing higher security and reception center inmates as long as the total, net staffing ratio remains 5.6 inmates per position.

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

The five-year rollout of this proposal is shown in the table below.

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
<i>Totals</i>	<i>581.5</i>	<i>\$77,242,000</i>

LAO Concerns and Recommendation. Previously, the LAO listed four primary concerns with this proposal (described in more detail below). Based on these concerns, the LAO recommended 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 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.
- **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 Recommendation. Authorize position authority requested, but do not authorize additional General Fund augmentation. Staff agrees that the proposed methodology proposed by the department is more transparent than the SAM. However, the state's fiscal situation, as well as ongoing vacancy rates and reliance on registry in the department make it difficult to justify additional funding for this program in the short term. Taking the recommended approach would provide the department the authority to realign its position authority consistent with its revised methodology. The department would have to come forward in future budget years to request additional funding authority above what is already authorized.

Taking this action would save \$9.8 million General Fund in the budget year.

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.

When this issue was heard by the subcommittee in March, the LAO reported that it did not appear that the department’s population request scored offsetting savings associated with the housing units from which the inmates were transferred. The LAO further reported that an adjustment for this would need to be made in the May Revision. The department was unable to tell staff whether the offsetting savings identified as necessary by the LAO were in fact made in the May Revision.

Staff Recommendation. Reduce position and funding authority in half to \$3,363,000 and 36.6 PYs to account for offsetting savings that should have been scored in the May Revision. If the department can demonstrate that such savings have in fact been scored already, the committee should consider approving this request as budgeted.

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. Reduce the request by \$175,000 and three positions (materials and stores supervisor and two office technicians) because these positions are not directly driven by regulatory requirements. Given the state's fiscal condition, the institution should be required to utilize or redirect existing resources to perform these functions as necessary. San Quentin spent about \$250 million last year.

Issue 7 – 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. Further, as noted by the LAO, 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. However, this appears to be part of the services the county has agreed to provide for these parolees through the reentry court program.

Staff Recommendation. Approve with modifications to increase net savings by \$166,000. Reduce position authority from 3 positions to 1 position, and approve only 200 hours of overtime on a one-time basis. These changes would still provide the department with a position responsible for overseeing this program and potentially seeking additional partners in other counties.

As recommended by the LAO, approve this proposal on a two-year limited term basis and adopt supplemental report language requiring the department to report on program implementation and outcomes.

Issue 8 – January and May Revision Population Requests

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.

The table below shows the projected adult and juvenile populations assumed in the Governor’s May Revision as compared to actual year-end figures from last year.

May Revision Average Daily Population Projections

	June 30, 2009 (Actual)	2009-10	2010-11
Inmates	167,832	167,058	163,681
Parolees	111,202	119,913	119,200
Juvenile Wards	1,659	1,517	1,399
Juvenile Parolees	1,851	1,722	1,520

Governor’s January and May Revision Requests. Including both the January budget request and the May Revision, the administration requests a total of \$645 million in the current year and \$541 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.

Population Budget Requests by Fund – January and May Revision Combined (In millions of dollars)

Fund	2009-10	2010-11
General Fund	\$648.6	\$550.3
General Fund – Prop 98	-\$3.3	-\$7.8
Reimbursements	\$0.0	-\$.2
Inmate Welfare Fund	\$0.1	-\$1.1
Totals	\$645.4	\$541.1

Population Budget Requests by Issue (In millions of dollars)

	January Budget		May Revision		Totals	
	2009-10	2010-11	2009-10	2010-11	2009-10	2010-11
Caseload adjustments	-\$23.6	\$0.8	\$20.2	-\$118.9	-\$3.3	-\$118.2
Legislative population reforms	\$614.9	\$367.3	\$34.3	\$203.4	\$649.2	\$570.8
Local assistance	\$6.3	\$122.7	\$0.6	-\$29.7	\$6.9	\$92.9
Stark activation as adult facility	\$28.6	\$42.2	-\$18.3	\$11.3	\$10.4	\$53.5
Out-of-State beds	-\$0.1	\$2.2	-\$1.6	\$0.1	-\$1.8	\$2.4
Community correctional facilities	\$0.0	\$0.0	-\$8.2	-\$16.5	-\$8.2	-\$16.5
Juvenile justice	-\$2.0	-\$21.3	-\$5.8	-\$22.3	-\$7.8	-\$43.6
Totals	\$624.1	\$513.9	\$21.3	\$27.4	\$645.4	\$541.1

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

- **Caseload Adjustments.** The department identifies several areas where it projects 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. Unlike in the January budget request, the May Revision population estimates combine the projected impact of the current year legislative reforms with the projected underlying population trends. Because the May Revision takes a different approach to how it accounts for the impact of the population reforms, it is difficult for staff to compare the changes side by side.
- **Legislative Population Reforms.** In total, the department's May Revision projections assume an additional \$101 million in costs due to unachieved savings associated with the legislative reforms. The January budget assumed \$367 million in unachieved savings. The lost savings assumed in the May Revision is primarily driven by the department's current estimates that it will achieve less than half of the budget year savings associated with implementing summary parole and credit changes. In addition, the department assumes no savings associated with commuting sentences of immigrants in state prison and transferring them to federal prison for deportation.
- **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 budget and May Revision request a total of \$81 million in one-time funding to offset a backlog of payments from the last year and current year. In addition, the department requests a one-time \$5.5 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. Previously, the LAO recommended that the Legislature spread the one-time payments out over three years which would save the state \$54 million in the budget year.
- **Stark Activation as an Adult Facility.** The department plans to convert the Stark DJJ facility (Chino) to an adult facility. As of March, 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 May Revision assumes that Stark will only be used for the first four months of the budget year based on a legal opinion the department received stating that the department cannot occupy the facility while AB 900 renovations are occurring. In January, the department had requested a net amount of \$42 million to operate the facility for the full budget year for 2,251 inmates. Under the May Revision, the department is requesting \$53 million to occupy the facility with 1,400 inmates for four months and move those offenders to other facilities for the remainder of the fiscal year.
- **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. Based on the January budget request, the LAO raised several concerns with this proposal, including that several of the positions and requested overtime funding was not fully justified, and that there have been delays in the implementation schedule. Based on those findings, the LAO recommended 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.

- **Juvenile Justice.** The department's January budget 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. The May Revision identified an additional \$19.7 million in savings in the budget year associated with projected declines in the juvenile facility population of 227 wards.

Staff Recommendation. Reduce by \$124.9 million in the budget year to account for the following changes:

- **Legislative Population Reforms (-\$50 million).** The additional \$101 million in state costs assumed in the May Revision is based on department estimates that it will achieve less than half of the savings assume in the January budget for three significant budget proposals. Much of these lost savings, though, are due not to natural erosion but the administration's failure to implement budget proposals enacted by the Legislature and Governor. For example, the Governor has not commuted and transferred to the federal prisons a single inmate under the ICE commutation proposal. (Staff has requested that the department provide the committee information on the number of inmates screened and referred to the Governor for consideration, but that information has not yet been provided.) Additionally, despite passage of the budget last summer, the department did not start screening inmates for eligibility for summary parole until January. Consequently, it has screened fewer than 20,000 parolees for eligibility, significantly reducing the savings. Based on these findings, staff recommends that half of the savings be reinstated.
- **Local Assistance (-\$54 million).** As recommended by the LAO, direct the department to spread the \$81 million in backlogged payments across three fiscal years. This action would save \$54 million in the budget year, though those costs would simply be deferred to the following two fiscal years.
- **Stark Activation (-\$9.3 million).** Staff notes that the department's request for Stark assumes an average annual cost of \$63,000 per inmate during the time that inmates are housed in Stark before being transferred to other facilities. This is significantly higher than the average cost to house inmates normally, as well as being almost three times higher than the marginal overcrowding costs with which we normally budget population changes. Because Stark is operating as a new satellite facility of the California Institution for Men, it is probably appropriate to provide more funding than the marginal cost would provide, but \$63,000 per inmate is too high. By reducing these costs by \$20,000 per inmate per year for the time spent in Stark, the state would save \$9.3 million in the budget year.

- ***Out of State Expansion (-\$2.4 million)***. While housing inmates out of state provides additional relief from overcrowding, staff recommends rejecting the proposal to expand at this time given the net costs of this proposal and the state's current fiscal shortfall. Moreover, projected declines in the inmate population make the need for out of state expansion less urgent at the current time.
- ***Juvenile Justice (-\$9.2 million)***. Staff recommends further reducing funding for the housing of juveniles in state facilities based on two factors. First, the juvenile population has been trending lower over the entire fiscal year. While that trend has slowed down over the past couple of months, it is likely that some additional reductions will occur in the budget year. Second, the department's current estimate of savings - \$19.7 million – calculates to a marginal cost of only \$87,000 per ward per year. This cost factor is too low. Based on staff estimates of an additional drop in ward average daily population of 30 wards (in addition to the 227 reduction already assumed in the May Revision) and using a marginal cost of \$112,500, staff estimates total savings of \$28.9 million, resulting in additional savings of \$9.2 million compared to the May Revision.

SUBCOMMITTEE NO. 4

Agenda

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



**Monday, May 24, 2010
1:30pm or Upon Adjournment of Session
Room 112**

Consultant: Kris Kuzmich

MAY REVISE AND "OPEN ISSUES"

PART A

Item Number and Title

0509 Governor's Office of Economic Development
0840 State Controller's Office
0911 Citizens Redistricting Initiative
8955 California Department of Veterans Affairs

Trailer Bill Language: Public Works Board Oversight and Interim
Financing for Lease-Revenue Bond Financed Capital Outlay Projects

(Please see detailed agenda on page 2 for a 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 – DISCUSSION / VOTE ITEMS

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*Issue Proposed for Discussion / Vote:***Issue 1 – Reimbursements and Support: Governor's Office of Economic Development**

Governor's Request. The Governor's May Revision requests addition of a budget bill item and reimbursement authority of \$2.098 million in 2010-11 to support the Governor's Office of Economic Development (GoED) which is intended to serve as the state's lead entity for economic development among existing state agencies and departments. Full year costs of GoED would be \$4.196 million in 2011-12 and ongoing. The request redirects 31 positions from existing state agencies and departments and requires those departments to reimburse the new organization with existing resources so that no new costs are incurred to the state.

Background. Prior to 2003, the majority of the state's economic development programs were housed within the Technology, Trade, and Commerce Agency (TTCA). The 2003-04 Budget Act abolished the agency and state funding for many of its programs designed to encourage economic development. While the state's adverse fiscal condition precipitated the elimination of the agency, many had long questioned the value and impact of many of the agency's programs.

In April 2010, the Governor issued an executive order establishing the Governor's Office of Economic Development (GoED) within the Governor's office. The purpose of this office is to support current and prospective California businesses.

LAO Recommendation. The LAO finds that the creation of a new state organization to provide specific services is an important policy decision that should involve the Legislature. There are currently various policy bills relating to economic development moving through the regular legislative process, including SB 1259 (DeSaulnier), which proposes to create a similar state organization called the Economic Development and Job Creation Agency. As the policy debate is still ongoing, establishing or staffing an office of economic development via this budget request, in the LAO's view, is premature. In addition, the LAO finds that this proposal is loosely conceived. Because GoED's mission seems very broad, it is unclear that it would address a well-identified problem, or provide a demonstrable net benefit. Absent this information, the Legislature has no way to determine the effectiveness of the proposed organization. In short, GoED could become just another TTCA.

The LAO also notes that this proposal redirects significant resources, including 31 positions, from various departments and agencies within state government in order to fund and staff the new office. Removing these positions and assigning them new roles in the proposed organization could result in services left unprovided in their current departments. To the extent that many of these positions will be completing relatively similar duties in the new organization as they currently perform, this presumably would result in only a minor loss of state services provided. However, the LAO estimates that roughly one-third of the redirected positions will be conducting entirely new workload activities. For example, the proposal redirects the director of the Department of

Consumer Affairs and the Chief Deputy Director of the Department of Transportation positions to instead staff the new office. Either these redirected positions are important in their current roles and their redirection would result in work not being performed in their current departments or agencies, or these positions are currently unnecessary and could be eliminated.

The LAO recommends rejection of the Governor's proposal. The LAO believes that significant governmental organization decisions of this type generally should be crafted through the regular legislative process. Also, this particular proposal is loosely conceived and does not provide enough information to justify the new organization. Finally, the LAO questions the decision to redirect the significant level of resources from the various departments and agencies to establish this new organization. To the extent the administration believes some or all of these positions are redundant, the Legislature may wish to consider their elimination.

Staff Comment. Staff finds the timing of this May Revision request a bit odd. The Governor's Office of Economic Development does not exist in statute; it exists because the Governor created it by Executive Order last month. This request to add a budget bill item, as well as create reimbursement authority for GoED, is timed for January 1, 2011 when an as yet to be identified policy bill would ostensibly take effect. The Administration has indicated that a number of potential policy bills are presently before the Legislature that pertain to this issue; however, none are officially tied to this request. Staff notes that a more sensible course of action would be to have the Legislature first approve a bill before establishing the office and then requesting a budget item and/or reimbursement authority.

Staff Recommendation. Without prejudice, deny the May Revision request to provide reimbursement support for the Governor's Office of Economic Development, and defer to the policy process.

VOTE:

*Issue Proposed for Discussion / Vote:***Issue 1 – Increased Accounting and Reporting Workload (BCP #6)**

Governor's Request. The January Governor's Budget requests \$500,000 (\$250,000 General Fund and \$250,000 special fund) in 2010-11 and ongoing 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. The resources in this request breakdown as follows:

	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

The Subcommittee heard this item on March 11, 2010, and denied on a 2-0 vote, with Senator Harman absent, the entirety of the request. Since that hearing, the SCO has provided additional information related to the Cash Management Position that warrants the subcommittee's reconsideration of this portion of the request.

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 as the landscape for the SCO's cash management responsibilities has changed significantly. The SCO indicates that it is no longer possible to rely on historical trends for cash receipts and disbursements as a result of several changes on both sides of the equation. For example, April revenues came in approximately \$3.5 billion below estimates, which demonstrates cash management will continue to be a problem. The core issue is about maintaining the ability of this office to address increasing workload and then continue to provide accurate cash flow updates on a daily basis. This data is necessary to preserve the state's ability to borrow for cash flow needs (e.g., Revenue Anticipation Notes), and keep the state's borrowing costs to a minimum. Rating agencies and investors rely on this information from the SCO. To the extent that the SCO's work does not satisfy rating agencies and investors, it would affect the SCO's ability to borrow or increase costs.

Staff Recommendation: Reopen BCP #6 and APPROVE only the resources related to the Cash Management positions for a two-year limited term.

VOTE:

*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.

LAO Recommendation. 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 (January 1, 2011 through June 30, 2011). 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. The Secretary of State (SOS) has specific statutory responsibilities to provide transitional support to the Commission as it begins 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.

Staff Comment. The key question before the Subcommittee is how much more the Commission (and SOS) needs in 2010-11 to do its work beyond the \$2.5 million that remains unspent from the 2009-10 appropriation. This is an important consideration as the Legislature should avoid over appropriating this budget item; under the terms of Proposition 11, the funding provided to this item creates a permanent baseline funding amount adjusted for inflation. Yet, it is also crucial to ensure the effort is adequately funded. 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. Staff also notes, however, that the Commission has a short time frame within which to complete its work, so the standard deficiency process might not be the optimal approach. Staff, therefore, recommends the Subcommittee consider approving an abbreviated process which would allow the Commission access to additional funds but at the same time ensures fiscal accountability and oversight. Finally, staff recommends the Subcommittee consider adopting Supplemental Report Language, per the LAO’s recommendation, to ensure that the SOS begins planning in earnest to provide transitional support to the Commission.

Staff Recommendation. DENY the Governor's request to provide a \$3 million augmentation to the Citizens Redistricting Initiative and approve the following budget bill language (BBL), trailer bill language (TBL), and supplemental report language (SRL);

1. **BBL** (which replaces in full the current budget bill language): *The Director of Finance may augment this item by up to \$1 million, if the Commission demonstrates why the funding is necessary prior to July 1, 2011, not sooner than 30 days after notification to the Joint Legislative Budget Committee, or whatever lesser time determined by the Chair of the Joint Legislative Budget Committee;*
2. **TBL**: *Funds appropriated in Item 0911-001-0001 in the 2010-11 Budget Act shall be available for a three-year period. The Director of Finance shall allocate the funds in this item among the Citizens Redistricting Commission, the Secretary of State and the Bureau of State Audits no sooner than: (a) the State Auditor has randomly drawn the eight names to be the initial commissioners, pursuant to Government Code 8252 (f). In order to receive an allocation of funds under this provision, the Bureau of State Audits shall submit a request with a detailed cost estimate to the Chairperson of the Joint Legislative Budget Committee and the Director of Finance. If the chairperson of the joint committee provides a written notification to the director that the requested allocation, or a lesser amount, is needed to carry out the expenses of the Bureau of State Audits, the director shall make an allocation of funds as identified in the written notification; and*
3. **SRL**: *The Secretary of State's office must submit to the Legislature's budget and appropriate policy committees, no later than September 15, 2010, a detailed plan on how they will provide transitional staffing and expertise to the Citizens Redistricting Commission once the Commissioner selection process is complete. This plan shall include staffing levels, space accommodations (coordinated through the Governor's Office), and detailed activities.*

VOTE:

8955 DEPARTMENT OF VETERANS AFFAIRS

Issues Proposed for Discussion / Vote:

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

Governor's Request. The January Governor's Budget 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.

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.

LAO Comment. The request calculates the salary savings rate at the standard five percent. This approach assumes that about 95 percent of the 102.3 positions would be filled on July 1, 2010. According to the CDVA, the GLAVC Phase III budget change proposal included 356.7 positions which were phased in during the current fiscal year as follows: July 2009 - 118.0 positions; October 2009 - 5.0 positions; January 2010 - 6.0 positions; and April 1, 2010 227.7 positions. As of April 30, 2010, of the 356.7 positions, 177.4 were filled and 179.3 or a little more than 50 percent were unfilled. Based on the rate at which the Phase III positions are being filled, the LAO believes it is unlikely that the CDVA would be able to fill the 102.3 Phase IV positions on July 1, 2010. Accordingly, the LAO recommends a salary savings rate of 20 percent (instead of a five percent salary savings rate) be applied in order to achieve savings of \$700,000 and to better align funding for the new positions with the rate at which they are likely to be filled. The LAO notes that if the Governor's proposal to increase salary savings from the standard five percent to ten percent in the budget year was adopted, this would result in a salary savings rate of 25 percent when combined with the LAO recommendation.

LAO Recommendation. Increase the salary savings rate from five percent to 20 percent in order to achieve savings of about \$700,000 General Fund and more accurately reflect the rate at which new positions will be filled in the budget year.

Staff Comment. Staff agrees with the need to adequately and appropriately staff the VHC-GLAVC facilities. When this item was first heard on March 25, 2010, CDVA staff presented that hiring and occupancy timeframes had been updated to reflect admission schedules and level-of-care offerings. Given new information presented with the May Revision, and as noted in the LAO comments, it appears that not all of the positions authorized in this request will be hired per the updated schedules. Further, when this item was first heard, staff noted 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).

Staff Recommendation: APPROVE the LAO recommendation to achieve savings of \$700,000 General Fund and ELIMINATE the Information Officer III position from the request for additional General Fund savings of \$89,688.

VOTE:

Issue 2 – 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)

Governor’s Request. The January Governor’s Budget 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)

*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. 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. When this item was first heard on March 25, 2010, staff noted that motor vehicles included in these requests, totaling \$92,000 per home,

and questioned 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. CDVA indicates the vehicles would be used for resident transport; i.e., for instance, from the home to medical appointments. Staff notes that construction of the Redding Home is scheduled to be complete in February 2012; construction of the Fresno Home is scheduled to be complete in April 2012. As such, staff finds that the vehicles would more appropriately be included as part of a 2011-12 Fiscal Year request. In addition, this will allow time for CDVA to pursue an exemption from the Governor's Executive Order. Presently, CDVA indicates that they are awaiting legislative approval of these requests, including the passenger vehicles, before pursuing an exemption from the Governor's Executive Order, which is necessary for the vehicles to be purchased. Staff finds that this approach is backwards. CDVA should secure an exemption from the Executive Order and then request budget authority from the Legislature to purchase the vehicles.

Staff Recommendation: APPROVE BCPs #2 and #3 with the exception of the passenger vehicles for which budget authority is denied for General Fund savings of \$184,000.

VOTE:

Issue 3 – Operation Welcome Home: County Veteran Service Offices

Governor's Request. The Governor's May Revision requests to implement and sustain Operation Welcome Home as follows: (1) an ongoing augmentation of \$8.4 million General Fund to supplement existing subvention funding (local assistance) to county veteran service offices (CVSOs); and (2) a one-time Veterans Service Office Fund augmentation of \$768,000 in fiscal year 2010 to be spent over three years to implement the Subvention Administrative Information System (SAIS), a common veteran case management application in CVSOs.

2009-10 Funding for CVSOs. CVSOs are local agencies established in 1946 to assist veterans and their families in obtaining benefits and services accrued through military service. In addition to local funds, the 2009-10 Budget Act provided \$2.6 million GF and \$554,000 (Veterans Service Office Fund) to counties toward compensation and expenses of CVSOs. The \$2.6 million GF figure has been static since 2004.

Background. The Governor began the OWH Initiative in February 2010 with the mission of connecting all recently returning California veterans with the multi-agency services necessary to assist them in making a successful transition to civilian life. Figure 1 on the next page illustrates the current funding for OWH, as well as the resources contained in this request:

Figure 1

Fund Source	Funding	Agency/Purpose	Ongoing vs. One-time
U.S. Department of Labor Grant	\$20,000,000	EDD/CalVet Corps	One-time
AmeriCorps Grant	\$700,000	CDVA/CalVet Corps	3 year grant
Veteran Service Office Fund	\$768,000	Subvention Administrative Information System	One-time
General Fund	\$8,400,000	CDVA/County Veteran Service Offices	Ongoing

The \$20 million of one-time redirected federal Unemployment Insurance and Wagner-Peyser grant monies for calendar year 2010 were used to hire 325 CalVet corps members. These are limited-term appointments that cease on December 31, 2010; the incumbents are mandated to meet with the veterans personally at 14, 30, 60, and 180 days to make sure that these veterans get connected to their benefits. The \$700,000 in one-time federal AmeriCorps Grant funds, to be spent over three years, were used to hire 84 AmeriCorps workers. These AmeriCorps workers have been assigned to the CVSOs and other veteran service agency operations for referral management and outreach to the newly discharged veterans. The OWH also utilizes nine regional collaboratives of existing veteran service providers in the federal, city, county, profit, non-profit, and faith based communities to better serve veterans through the use of local resources. The cost of this activity is minimal and uses existing resources. The Administration indicates that in the first month of operation, the OWH reached almost 2,000 veterans and over 6,000 veterans have been lined up for interview.

The Administration indicates it plans to allocate the \$8.4 million GF in this request as follows: (1) \$2.4 million to eligible counties using current allocation rules; (2) \$5.0 million allocated as competitive grants; and (3) \$1.0 million allocated as competitive grants to private and/or non-profit veteran service organizations.

With regard to the Veterans Service Office fund, which is comprised of revenues from the sale of special license plates, current law requires these funds be used to support CVSOs. As noted above, in 2009-10, \$544,000 of these revenues went as local assistance to CVSOs, while \$57,000 was used to cover CDVA state operations costs in support of CVSOs. This request schedules \$768,000 of these special funds over three years to fund a commercial off-the-shelf solution for 38 CVSO offices, effectively replacing their current case management system and resulting in a standardized system across all CVSOs. In addition, these funds will provide scanners for CVSOs to enable more efficient processing of benefit applications.

LAO Recommendation. The OWH Initiative is designed to connect all recently released veterans with services to help them successfully transition back to civilian life. This would be accomplished through a collaborative effort between existing state departments, the Cal Vet Corps which is a network of volunteers, and through nine non-governmental regional outreach teams. Without prejudice to the merits of the policy that would be implemented by OWH, the LAO recommends the Legislature deny the request for \$8.4 million GF due to the state's poor fiscal condition. The LAO does not take issue with the proposal to use Veterans Service Office Fund monies to implement a common case management application in CVSOs.

Staff Comment. The \$8.4 million GF for CVSOs represented in this request would represent the only permanent ongoing funding for OWH. Staff notes that the present plan for these funds includes \$1 million to be allocated on a competitive basis to private and/or non-profit veteran service organizations. Staff readily acknowledges that these organizations play an important role in assisting veterans and their dependents and survivors. However, the premise of the BCP is to get veterans connected to their benefits which is the primary purpose of CVSOs.

Staff also notes that Section 972.1 (d)(1) of the Military and Veterans Code contains legislative findings and declarations that 50 percent of the amount annually budgeted for CVSOs is approximately \$11 million and that it is an efficient and reasonable use of state funds to increase the annual budget for CVSOs in an amount not to exceed \$11 million if it is justified by the monetary benefits to the state's veterans attributable to the effort of these officers. Section 972.1 (d)(2) states legislative intent that any increase in CVSO funding, which should not exceed \$5 million, is determined by if the monetary benefits to the state's veterans attributable to the assistance of CVSOs justify that increase in the budget. According to the most recent determination filed by CDVA with the Department of Finance, for Fiscal Year 2008-09, it is reported that federal monetary benefits obtained for veterans by CVSOs increased 13.16 percent year-to-year (2007-08 to 2008-09). This 13.16 percent increase reflects an increase of \$1.6 million in monthly benefits, with an annualized value of \$19.5 million.

It warrants the Subcommittee's consideration that the federal government is implementing a pilot program on the use of community-based organizations and local and state government entities to ensure that veterans receive care and benefits for which they are eligible. The program was authorized without a specified amount of funding. It is not yet clear whether the U.S. Department of Veterans Affairs will use its existing resources or whether it will require an appropriation in the defense spending bill (anticipated to be approved by Congress in late November/December). Staff understands that the Administration is working with both Senate and Assembly policy staff to develop potential projects for federal-state collaboration on veterans, including preparing a coordinated plan to be competitive for this new program.

Staff finds that the goals of OWH are laudable and it is in the state's interest to connect recently returned veterans to the federal benefits for which they are eligible. However, and as noted by the LAO, it is difficult to understand how new GF spending can be proposed for a new program, even for something as meritorious as Operation Welcome Home, given that the state currently faces a \$20 billion GF shortfall.

Staff Recommendation. APPROVE the Governor's request to provide \$768,000 (Veterans Service Office Fund) to be spent over three years to implement the Subvention Administrative Information System. DENY the Governor's request to provide \$8.4 million GF to County Veteran Service Offices and instead provide the CVSOs with an increase of \$314,400 (Veterans Service Office Fund) in 2010-11 and ongoing, which represents a ten percent increase in CVSO funding.

VOTE:

Issue 4 – Pathway Home Program: General Fund Loan Authorization

Governor’s Request. The Governor’s May Revision requests budget bill language to provide up to \$1.3 million General Fund to the Pathway Home program in the event that alternative funding for the program cannot be identified.

Background. The Pathway Home Program (Program) is currently housed at the Yountville Veterans Home and provides treatment of post traumatic stress (PTSD) disorder and traumatic brain injuries (TBI) for returning Operation Iraqi Freedom and Operation Enduring Freedom (OEF/OIF) veterans who are transitioning from military life to civilian life.

In 2008, the CDVA negotiated an agreement with the Program to utilize private funding from the Iraq-Afghanistan Deployment Impact Fund to establish a specialized program in an unoccupied building to accommodate and rehabilitate physically and/or psychologically disabled veterans of service in Iraq and Afghanistan. Under current statute, these veterans are otherwise eligible for admission to the Home as a “disabled veteran;” however, their needs are very different from the aged and disabled veteran population which makes up the majority of the Yountville Home’s population today. The 2008-09 Budget approved increased reimbursement authority for CDVA of \$230,000 for three years to cover CDVA costs for approximately 30 residents at a time and three family members per resident for an average of four days per month. Additionally, Yountville provides the program free rent in exchange for the services provided to veterans in the community. Staffing costs, as well as medical care and other specialized services for the Program have been paid for by the private funds. The Program is primarily rehabilitative, and participants remain in the Program for less than 120 days. Since its inception, the Program has served 240 OEF/OIF veterans.

The Program’s projected annual expenditures are \$1.7 million. The \$1.3 million figure in this request is premised on the current private funding lasting through September; consequently, the \$1.3 million reflects the funding needed for the last nine months or three quarters of the 2010-11 fiscal year. The Administration indicates that this request is for one-year only and that CDVA’s costs to house the Program would be reimbursed out of the \$1.3 million. As of April 30, 2010, CDVA has received \$47,037 in reimbursements from the Program for the 2009-10 fiscal year.

When the Subcommittee first considered the Program two years ago, CDVA indicated that it hoped to identify a permanent funding source (perhaps federal) to continue the Program. The Program reports that its private grants funds will expire in October 2010. The Program is currently pursuing alternative fund sources, including through a request to Napa County for funding from the Mental Health Services fund; discussions with federal legislative representatives regarding federal funding opportunities; and continuing to seek private donations.

Staff Comment. The Program is built on an early intervention model which creates the potential to save and improve the lives of today’s combat veterans, helping to prevent institutionalization and avoid costs to the state and to society. The Program also is an integral part of the continuum of care for disabled and aged veterans. However, similar to concerns raised regarding Issue 3 above, it is difficult to understand how new GF

spending can be proposed for a new program, even for something as meritorious as the Pathway Home Program, given that the state currently faces a \$20 billion GF shortfall. Staff finds that the federal government should be funding this program, as it corrects a critical oversight made during the Vietnam era which allowed large numbers of veterans with PTSD and TBI to go without diagnosis or treatment and ultimately became homeless, institutionalized, or excessive users of clinical services. To provide the Program with some support, but cognizant of the state's General Fund condition, the Subcommittee may wish to consider instead providing the Pathway Home Program, once it has secured either federal or private funding, with a bridge loan to address cash flow issues until those other funds are received.

Staff Recommendation. APPROVE authorization for the Department of Finance to provide a bridge loan of \$300,000 General Fund to the Pathway Home Program once it has secured federal or private financing in order to address any cash flow issues. (This action denies the Governor's request to provide up to \$1.3 million General Fund to the Pathway Home Program).

VOTE:

**TRAILER BILL LANGUAGE: PUBLIC WORKS BOARD OVERSIGHT
AND INTERIM FINANCING FOR LEASE-REVENUE BOND FINANCED
CAPITAL OUTLAY PROJECTS**

Governor's Request. The January Governor's Budget requested trailer bill language to enact technical, clarifying, and streamlining statutory changes related to the State Public Works Board (PWB) oversight of capital outlay projects. The Governor's May Revision adds to the January request to address the PWB's need to provide interim project financing for lease-revenue financed capital outlay projects. The May Revision solution is asset transfers, which is an existing practice currently restricted to higher education and used only in very limited situations.

Background. The PWB was created by the Legislature to oversee the fiscal matters associated with construction of projects for state agencies, and to select and acquire real property for state facilities and programs. The PWB is also the issuer of lease-revenue bonds. The Legislature appropriates funds for capital outlay projects such as acquiring land, planning and constructing new buildings, expanding or modifying existing buildings, and/or purchasing equipment related to such construction. Through review and approval processes, the PWB ensures that capital outlay projects adhere to the Legislature's appropriation intents.

The Administration indicates that the January proposal is required to reconfirm the PWB's oversight authority of capital outlay projects because of a lower court ruling stating that the last amendment of this statutory authority violated the single subject rule. Because of the need to introduce this legislation, the PWB took the opportunity to provide further technical edits and clarification of these sections. However, since the Pooled Money Investment Board (PMIB) stopped authorizing interim financing loans to lease-revenue financed projects, the PWB has been exploring other interim financing options. This latter issue is addressed by the Governor's May Revision proposal.

Interim financing is the funds used until a bond funded project is sufficiently far enough along to sell bonds for it. The Administration indicates that since the PMIB stopped authorizing interim financing loans for lease-revenue financed projects, the PWB has changed its processes for issuing lease-revenue bonds from selling the bonds near the end of project construction to near the end of design. This results in the need to capitalize the costs of the project until the completion of construction. The Administration indicates that the state has approximately 50 projects stalled in the design phase that are not far enough along to issue bonds to complete the project. The May Revision proposal would address this issue by increasing the use of asset transfers, thereby enabling the PWB to restart some of these projects and decrease the cost of financing these assets by eliminating the need for capitalized interest costs. Historically, the ability to capitalize one asset and use the proceeds to build another has been restricted to higher education, and was used in only very limited situations. The May Revision trailer bill language request would allow the PWB to capitalize one state building and use the proceeds to fund the design/construction of one or more different state buildings.

Staff Comment. Staff raises no issue with the January Budget proposed trailer bill language. The proposed statutory changes contained therein are technical, clarifying,

and streamlining in nature and place capital outlay and design-build projects more under the umbrella of Department of Finance as opposed to the Department of General Services.

With regard to the Governor's May Revision proposal, staff agrees that there is a real need to address the interim financing issue. The Administration has identified a solution, which has also been reviewed by the Offices of the Treasurer and Attorney General. Additionally, the Administration has made a persuasive case as to why it is appropriate to pursue this trailer bill language within the budget arena. Quite simply, there are a number of lease-revenue bond financed projects proposed in the budget. The additional section amendments provide a very crucial interim financing option to enable the proposed projects to begin.

The LAO has informed staff that the Administration's May Revision proposal has numerous advantages and is consistent with trailer bill because it should help certain departments and the University of California move more quickly to expend bond proceeds that often are appropriated through the budget act. The LAO also notes that this is a practice that other governments utilize and, in some respects, it would seemingly reduce risks for bondholders and/or the state.

However, given that the May Revision trailer bill language represents substantive policy change, staff notes that the Subcommittee may wish to consider referring the May Revision proposal to policy committee for its analysis and recommendation.

Staff Recommendation. APPROVE the January Governor's Budget proposed trailer bill language. Without prejudice, REFER the May Revision trailer bill language to the pertinent policy committee for its analysis and recommendation with a request that the policy committee report back to the Subcommittee by June 5, 2010.

VOTE:

SUBCOMMITTEE NO. 4

Agenda

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



**Monday, May 24, 2010
1:30pm or Upon Adjournment of Session
Room 112**

Consultant: Kris Kuzmich

MAY REVISE AND "OPEN ISSUES"

PART A

OUTCOMES

Item Number and Title

0509 Governor's Office of Economic Development
0840 State Controller's Office
0911 Citizens Redistricting Initiative
8955 California Department of Veterans Affairs

Trailer Bill Language: Public Works Board Oversight and Interim Financing for Lease-Revenue Bond Financed Capital Outlay Projects

(Please see detailed agenda on page 2 for a 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 – DISCUSSION / VOTE ITEMS

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*Issue Proposed for Discussion / Vote:***Issue 1 – Reimbursements and Support: Governor's Office of Economic Development**

Governor's Request. The Governor's May Revision requests addition of a budget bill item and reimbursement authority of \$2.098 million in 2010-11 to support the Governor's Office of Economic Development (GoED) which is intended to serve as the state's lead entity for economic development among existing state agencies and departments. Full year costs of GoED would be \$4.196 million in 2011-12 and ongoing. The request redirects 31 positions from existing state agencies and departments and requires those departments to reimburse the new organization with existing resources so that no new costs are incurred to the state.

Background. Prior to 2003, the majority of the state's economic development programs were housed within the Technology, Trade, and Commerce Agency (TTCA). The 2003-04 Budget Act abolished the agency and state funding for many of its programs designed to encourage economic development. While the state's adverse fiscal condition precipitated the elimination of the agency, many had long questioned the value and impact of many of the agency's programs.

In April 2010, the Governor issued an executive order establishing the Governor's Office of Economic Development (GoED) within the Governor's office. The purpose of this office is to support current and prospective California businesses.

LAO Recommendation. The LAO finds that the creation of a new state organization to provide specific services is an important policy decision that should involve the Legislature. There are currently various policy bills relating to economic development moving through the regular legislative process, including SB 1259 (DeSaulnier), which proposes to create a similar state organization called the Economic Development and Job Creation Agency. As the policy debate is still ongoing, establishing or staffing an office of economic development via this budget request, in the LAO's view, is premature. In addition, the LAO finds that this proposal is loosely conceived. Because GoED's mission seems very broad, it is unclear that it would address a well-identified problem, or provide a demonstrable net benefit. Absent this information, the Legislature has no way to determine the effectiveness of the proposed organization. In short, GoED could become just another TTCA.

The LAO also notes that this proposal redirects significant resources, including 31 positions, from various departments and agencies within state government in order to fund and staff the new office. Removing these positions and assigning them new roles in the proposed organization could result in services left unprovided in their current departments. To the extent that many of these positions will be completing relatively similar duties in the new organization as they currently perform, this presumably would result in only a minor loss of state services provided. However, the LAO estimates that roughly one-third of the redirected positions will be conducting entirely new workload activities. For example, the proposal redirects the director of the Department of

Consumer Affairs and the Chief Deputy Director of the Department of Transportation positions to instead staff the new office. Either these redirected positions are important in their current roles and their redirection would result in work not being performed in their current departments or agencies, or these positions are currently unnecessary and could be eliminated.

The LAO recommends rejection of the Governor's proposal. The LAO believes that significant governmental organization decisions of this type generally should be crafted through the regular legislative process. Also, this particular proposal is loosely conceived and does not provide enough information to justify the new organization. Finally, the LAO questions the decision to redirect the significant level of resources from the various departments and agencies to establish this new organization. To the extent the administration believes some or all of these positions are redundant, the Legislature may wish to consider their elimination.

Staff Comment. Staff finds the timing of this May Revision request a bit odd. The Governor's Office of Economic Development does not exist in statute; it exists because the Governor created it by Executive Order last month. This request to add a budget bill item, as well as create reimbursement authority for GoED, is timed for January 1, 2011 when an as yet to be identified policy bill would ostensibly take effect. The Administration has indicated that a number of potential policy bills are presently before the Legislature that pertain to this issue; however, none are officially tied to this request. Staff notes that a more sensible course of action would be to have the Legislature first approve a bill before establishing the office and then requesting a budget item and/or reimbursement authority.

Staff Recommendation. Without prejudice, deny the May Revision request to provide reimbursement support for the Governor's Office of Economic Development, and defer to the policy process.

VOTE: Request DENIED by 3-0 vote.

*Issue Proposed for Discussion / Vote:***Issue 1 – Increased Accounting and Reporting Workload (BCP #6)**

Governor's Request. The January Governor's Budget requests \$500,000 (\$250,000 General Fund and \$250,000 special fund) in 2010-11 and ongoing 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. The resources in this request breakdown as follows:

	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

The Subcommittee heard this item on March 11, 2010, and denied on a 2-0 vote, with Senator Harman absent, the entirety of the request. Since that hearing, the SCO has provided additional information related to the Cash Management Position that warrants the subcommittee's reconsideration of this portion of the request.

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 as the landscape for the SCO's cash management responsibilities has changed significantly. The SCO indicates that it is no longer possible to rely on historical trends for cash receipts and disbursements as a result of several changes on both sides of the equation. For example, April revenues came in approximately \$3.5 billion below estimates, which demonstrates cash management will continue to be a problem. The core issue is about maintaining the ability of this office to address increasing workload and then continue to provide accurate cash flow updates on a daily basis. This data is necessary to preserve the state's ability to borrow for cash flow needs (e.g., Revenue Anticipation Notes), and keep the state's borrowing costs to a minimum. Rating agencies and investors rely on this information from the SCO. To the extent that the SCO's work does not satisfy rating agencies and investors, it would affect the SCO's ability to borrow or increase costs.

Staff Recommendation: Reopen BCP #6 and APPROVE only the resources related to the Cash Management positions for a two-year limited term.

VOTE: APPROVED cash positions two year limited term by vote of 3-0.

*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.

LAO Recommendation. 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 (January 1, 2011 through June 30, 2011). 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. The Secretary of State (SOS) has specific statutory responsibilities to provide transitional support to the Commission as it begins 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.

Staff Comment. The key question before the Subcommittee is how much more the Commission (and SOS) needs in 2010-11 to do its work beyond the \$2.5 million that remains unspent from the 2009-10 appropriation. This is an important consideration as the Legislature should avoid over appropriating this budget item; under the terms of Proposition 11, the funding provided to this item creates a permanent baseline funding amount adjusted for inflation. Yet, it is also crucial to ensure the effort is adequately funded. 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. Staff also notes, however, that the Commission has a short time frame within which to complete its work, so the standard deficiency process might not be the optimal approach. Staff, therefore, recommends the Subcommittee consider approving an abbreviated process which would allow the Commission access to additional funds but at the same time ensures fiscal accountability and oversight. Finally, staff recommends the Subcommittee consider adopting Supplemental Report Language, per the LAO’s recommendation, to ensure that the SOS begins planning in earnest to provide transitional support to the Commission.

Staff Recommendation. DENY the Governor's request to provide a \$3 million augmentation to the Citizens Redistricting Initiative and approve the following budget bill language (BBL), trailer bill language (TBL), and supplemental report language (SRL);

1. **BBL** (which replaces in full the current budget bill language): *The Director of Finance may augment this item by up to \$1 million, if the Commission demonstrates why the funding is necessary prior to July 1, 2011, not sooner than 30 days after notification to the Joint Legislative Budget Committee, or whatever lesser time determined by the Chair of the Joint Legislative Budget Committee;*
2. **TBL**: *Funds appropriated in Item 0911-001-0001 in the 2010-11 Budget Act shall be available for a three-year period. The Director of Finance shall allocate the funds in this item among the Citizens Redistricting Commission, the Secretary of State and the Bureau of State Audits no sooner than: (a) the State Auditor has randomly drawn the eight names to be the initial commissioners, pursuant to Government Code 8252 (f). In order to receive an allocation of funds under this provision, the Bureau of State Audits shall submit a request with a detailed cost estimate to the Chairperson of the Joint Legislative Budget Committee and the Director of Finance. If the chairperson of the joint committee provides a written notification to the director that the requested allocation, or a lesser amount, is needed to carry out the expenses of the Bureau of State Audits, the director shall make an allocation of funds as identified in the written notification; and*
3. **SRL**: *The Secretary of State's office must submit to the Legislature's budget and appropriate policy committees, no later than September 15, 2010, a detailed plan on how they will provide transitional staffing and expertise to the Citizens Redistricting Commission once the Commissioner selection process is complete. This plan shall include staffing levels, space accommodations (coordinated through the Governor's Office), and detailed activities.*

VOTE: Staff recommendation approved by 3-0 vote.

8955 DEPARTMENT OF VETERANS AFFAIRS

Issues Proposed for Discussion / Vote:

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

Governor's Request. The January Governor's Budget 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.

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.

LAO Comment. The request calculates the salary savings rate at the standard five percent. This approach assumes that about 95 percent of the 102.3 positions would be filled on July 1, 2010. According to the CDVA, the GLAVC Phase III budget change proposal included 356.7 positions which were phased in during the current fiscal year as follows: July 2009 - 118.0 positions; October 2009 - 5.0 positions; January 2010 - 6.0 positions; and April 1, 2010 227.7 positions. As of April 30, 2010, of the 356.7 positions, 177.4 were filled and 179.3 or a little more than 50 percent were unfilled. Based on the rate at which the Phase III positions are being filled, the LAO believes it is unlikely that the CDVA would be able to fill the 102.3 Phase IV positions on July 1, 2010. Accordingly, the LAO recommends a salary savings rate of 20 percent (instead of a five percent salary savings rate) be applied in order to achieve savings of \$700,000 and to better align funding for the new positions with the rate at which they are likely to be filled. The LAO notes that if the Governor's proposal to increase salary savings from the standard five percent to ten percent in the budget year was adopted, this would result in a salary savings rate of 25 percent when combined with the LAO recommendation.

LAO Recommendation. Increase the salary savings rate from five percent to 20 percent in order to achieve savings of about \$700,000 General Fund and more accurately reflect the rate at which new positions will be filled in the budget year.

Staff Comment. Staff agrees with the need to adequately and appropriately staff the VHC-GLAVC facilities. When this item was first heard on March 25, 2010, CDVA staff presented that hiring and occupancy timeframes had been updated to reflect admission schedules and level-of-care offerings. Given new information presented with the May Revision, and as noted in the LAO comments, it appears that not all of the positions authorized in this request will be hired per the updated schedules. Further, when this item was first heard, staff noted 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).

Staff Recommendation: APPROVE the LAO recommendation to achieve savings of \$700,000 General Fund and ELIMINATE the Information Officer III position from the request for additional General Fund savings of \$89,688.

VOTE: Staff recommendation approved by 3-0 vote.

Issue 2 – 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)

Governor’s Request. The January Governor’s Budget 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)

*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. 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. When this item was first heard on March 25, 2010, staff noted that motor vehicles included in these requests, totaling \$92,000 per home,

and questioned 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. CDVA indicates the vehicles would be used for resident transport; i.e., for instance, from the home to medical appointments. Staff notes that construction of the Redding Home is scheduled to be complete in February 2012; construction of the Fresno Home is scheduled to be complete in April 2012. As such, staff finds that the vehicles would more appropriately be included as part of a 2011-12 Fiscal Year request. In addition, this will allow time for CDVA to pursue an exemption from the Governor's Executive Order. Presently, CDVA indicates that they are awaiting legislative approval of these requests, including the passenger vehicles, before pursuing an exemption from the Governor's Executive Order, which is necessary for the vehicles to be purchased. Staff finds that this approach is backwards. CDVA should secure an exemption from the Executive Order and then request budget authority from the Legislature to purchase the vehicles.

Staff Recommendation: APPROVE BCPs #2 and #3 with the exception of the passenger vehicles for which budget authority is denied for General Fund savings of \$184,000.

VOTE: Amended staff recommendation approved by 3-0 vote; BCPs 2 and 3 approved but all vehicles denied. The staff recommendation above was in error in that it did not correctly include all of the vehicles in the BCPs. Total savings is \$564,000 General Fund.

Issue 3 – Operation Welcome Home: County Veteran Service Offices

Governor's Request. The Governor's May Revision requests to implement and sustain Operation Welcome Home as follows: (1) an ongoing augmentation of \$8.4 million General Fund to supplement existing subvention funding (local assistance) to county veteran service offices (CVSOs); and (2) a one-time Veterans Service Office Fund augmentation of \$768,000 in fiscal year 2010 to be spent over three years to implement the Subvention Administrative Information System (SAIS), a common veteran case management application in CVSOs.

2009-10 Funding for CVSOs. CVSOs are local agencies established in 1946 to assist veterans and their families in obtaining benefits and services accrued through military service. In addition to local funds, the 2009-10 Budget Act provided \$2.6 million GF and \$554,000 (Veterans Service Office Fund) to counties toward compensation and expenses of CVSOs. The \$2.6 million GF figure has been static since 2004.

Background. The Governor began the OWH Initiative in February 2010 with the mission of connecting all recently returning California veterans with the multi-agency services necessary to assist them in making a successful transition to civilian life. Figure 1 on the next page illustrates the current funding for OWH, as well as the resources contained in this request:

Figure 1

Fund Source	Funding	Agency/Purpose	Ongoing vs. One-time
U.S. Department of Labor Grant	\$20,000,000	EDD/CalVet Corps	One-time
AmeriCorps Grant	\$700,000	CDVA/CalVet Corps	3 year grant
Veteran Service Office Fund	\$768,000	Subvention Administrative Information System	One-time
General Fund	\$8,400,000	CDVA/County Veteran Service Offices	Ongoing

The \$20 million of one-time redirected federal Unemployment Insurance and Wagner-Peyser grant monies for calendar year 2010 were used to hire 325 CalVet corps members. These are limited-term appointments that cease on December 31, 2010; the incumbents are mandated to meet with the veterans personally at 14, 30, 60, and 180 days to make sure that these veterans get connected to their benefits. The \$700,000 in one-time federal AmeriCorps Grant funds, to be spent over three years, were used to hire 84 AmeriCorps workers. These AmeriCorps workers have been assigned to the CVSOs and other veteran service agency operations for referral management and outreach to the newly discharged veterans. The OWH also utilizes nine regional collaboratives of existing veteran service providers in the federal, city, county, profit, non-profit, and faith based communities to better serve veterans through the use of local resources. The cost of this activity is minimal and uses existing resources. The Administration indicates that in the first month of operation, the OWH reached almost 2,000 veterans and over 6,000 veterans have been lined up for interview.

The Administration indicates it plans to allocate the \$8.4 million GF in this request as follows: (1) \$2.4 million to eligible counties using current allocation rules; (2) \$5.0 million allocated as competitive grants; and (3) \$1.0 million allocated as competitive grants to private and/or non-profit veteran service organizations.

With regard to the Veterans Service Office fund, which is comprised of revenues from the sale of special license plates, current law requires these funds be used to support CVSOs. As noted above, in 2009-10, \$544,000 of these revenues went as local assistance to CVSOs, while \$57,000 was used to cover CDVA state operations costs in support of CVSOs. This request schedules \$768,000 of these special funds over three years to fund a commercial off-the-shelf solution for 38 CVSO offices, effectively replacing their current case management system and resulting in a standardized system across all CVSOs. In addition, these funds will provide scanners for CVSOs to enable more efficient processing of benefit applications.

LAO Recommendation. The OWH Initiative is designed to connect all recently released veterans with services to help them successfully transition back to civilian life. This would be accomplished through a collaborative effort between existing state departments, the Cal Vet Corps which is a network of volunteers, and through nine non-governmental regional outreach teams. Without prejudice to the merits of the policy that would be implemented by OWH, the LAO recommends the Legislature deny the request for \$8.4 million GF due to the state's poor fiscal condition. The LAO does not take issue with the proposal to use Veterans Service Office Fund monies to implement a common case management application in CVSOs.

Staff Comment. The \$8.4 million GF for CVSOs represented in this request would represent the only permanent ongoing funding for OWH. Staff notes that the present plan for these funds includes \$1 million to be allocated on a competitive basis to private and/or non-profit veteran service organizations. Staff readily acknowledges that these organizations play an important role in assisting veterans and their dependents and survivors. However, the premise of the BCP is to get veterans connected to their benefits which is the primary purpose of CVSOs.

Staff also notes that Section 972.1 (d)(1) of the Military and Veterans Code contains legislative findings and declarations that 50 percent of the amount annually budgeted for CVSOs is approximately \$11 million and that it is an efficient and reasonable use of state funds to increase the annual budget for CVSOs in an amount not to exceed \$11 million if it is justified by the monetary benefits to the state's veterans attributable to the effort of these officers. Section 972.1 (d)(2) states legislative intent that any increase in CVSO funding, which should not exceed \$5 million, is determined by if the monetary benefits to the state's veterans attributable to the assistance of CVSOs justify that increase in the budget. According to the most recent determination filed by CDVA with the Department of Finance, for Fiscal Year 2008-09, it is reported that federal monetary benefits obtained for veterans by CVSOs increased 13.16 percent year-to-year (2007-08 to 2008-09). This 13.16 percent increase reflects an increase of \$1.6 million in monthly benefits, with an annualized value of \$19.5 million.

It warrants the Subcommittee's consideration that the federal government is implementing a pilot program on the use of community-based organizations and local and state government entities to ensure that veterans receive care and benefits for which they are eligible. The program was authorized without a specified amount of funding. It is not yet clear whether the U.S. Department of Veterans Affairs will use its existing resources or whether it will require an appropriation in the defense spending bill (anticipated to be approved by Congress in late November/December). Staff understands that the Administration is working with both Senate and Assembly policy staff to develop potential projects for federal-state collaboration on veterans, including preparing a coordinated plan to be competitive for this new program.

Staff finds that the goals of OWH are laudable and it is in the state's interest to connect recently returned veterans to the federal benefits for which they are eligible. However, and as noted by the LAO, it is difficult to understand how new GF spending can be proposed for a new program, even for something as meritorious as Operation Welcome Home, given that the state currently faces a \$20 billion GF shortfall.

Staff Recommendation. APPROVE the Governor's request to provide \$768,000 (Veterans Service Office Fund) to be spent over three years to implement the Subvention Administrative Information System. DENY the Governor's request to provide \$8.4 million GF to County Veteran Service Offices and instead provide the CVSOs with an increase of \$314,400 (Veterans Service Office Fund) in 2010-11 and ongoing, which represents a ten percent increase in CVSO funding.

VOTE: Item not heard as it was pulled from the agenda.

Issue 4 – Pathway Home Program: General Fund Loan Authorization

Governor’s Request. The Governor’s May Revision requests budget bill language to provide up to \$1.3 million General Fund to the Pathway Home program in the event that alternative funding for the program cannot be identified.

Background. The Pathway Home Program (Program) is currently housed at the Yountville Veterans Home and provides treatment of post traumatic stress (PTSD) disorder and traumatic brain injuries (TBI) for returning Operation Iraqi Freedom and Operation Enduring Freedom (OEF/OIF) veterans who are transitioning from military life to civilian life.

In 2008, the CDVA negotiated an agreement with the Program to utilize private funding from the Iraq-Afghanistan Deployment Impact Fund to establish a specialized program in an unoccupied building to accommodate and rehabilitate physically and/or psychologically disabled veterans of service in Iraq and Afghanistan. Under current statute, these veterans are otherwise eligible for admission to the Home as a “disabled veteran;” however, their needs are very different from the aged and disabled veteran population which makes up the majority of the Yountville Home’s population today. The 2008-09 Budget approved increased reimbursement authority for CDVA of \$230,000 for three years to cover CDVA costs for approximately 30 residents at a time and three family members per resident for an average of four days per month. Additionally, Yountville provides the program free rent in exchange for the services provided to veterans in the community. Staffing costs, as well as medical care and other specialized services for the Program have been paid for by the private funds. The Program is primarily rehabilitative, and participants remain in the Program for less than 120 days. Since its inception, the Program has served 240 OEF/OIF veterans.

The Program’s projected annual expenditures are \$1.7 million. The \$1.3 million figure in this request is premised on the current private funding lasting through September; consequently, the \$1.3 million reflects the funding needed for the last nine months or three quarters of the 2010-11 fiscal year. The Administration indicates that this request is for one-year only and that CDVA’s costs to house the Program would be reimbursed out of the \$1.3 million. As of April 30, 2010, CDVA has received \$47,037 in reimbursements from the Program for the 2009-10 fiscal year.

When the Subcommittee first considered the Program two years ago, CDVA indicated that it hoped to identify a permanent funding source (perhaps federal) to continue the Program. The Program reports that its private grants funds will expire in October 2010. The Program is currently pursuing alternative fund sources, including through a request to Napa County for funding from the Mental Health Services fund; discussions with federal legislative representatives regarding federal funding opportunities; and continuing to seek private donations.

Staff Comment. The Program is built on an early intervention model which creates the potential to save and improve the lives of today’s combat veterans, helping to prevent institutionalization and avoid costs to the state and to society. The Program also is an integral part of the continuum of care for disabled and aged veterans. However, similar to concerns raised regarding Issue 3 above, it is difficult to understand how new GF

spending can be proposed for a new program, even for something as meritorious as the Pathway Home Program, given that the state currently faces a \$20 billion GF shortfall. Staff finds that the federal government should be funding this program, as it corrects a critical oversight made during the Vietnam era which allowed large numbers of veterans with PTSD and TBI to go without diagnosis or treatment and ultimately became homeless, institutionalized, or excessive users of clinical services. To provide the Program with some support, but cognizant of the state's General Fund condition, the Subcommittee may wish to consider instead providing the Pathway Home Program, once it has secured either federal or private funding, with a bridge loan to address cash flow issues until those other funds are received.

Staff Recommendation. APPROVE authorization for the Department of Finance to provide a bridge loan of \$300,000 General Fund to the Pathway Home Program once it has secured federal or private financing in order to address any cash flow issues. (This action denies the Governor's request to provide up to \$1.3 million General Fund to the Pathway Home Program).

VOTE: Staff recommendation approved by a 2-1 vote with Senator Harman voting no.

**TRAILER BILL LANGUAGE: PUBLIC WORKS BOARD OVERSIGHT
AND INTERIM FINANCING FOR LEASE-REVENUE BOND FINANCED
CAPITAL OUTLAY PROJECTS**

Governor's Request. The January Governor's Budget requested trailer bill language to enact technical, clarifying, and streamlining statutory changes related to the State Public Works Board (PWB) oversight of capital outlay projects. The Governor's May Revision adds to the January request to address the PWB's need to provide interim project financing for lease-revenue financed capital outlay projects. The May Revision solution is asset transfers, which is an existing practice currently restricted to higher education and used only in very limited situations.

Background. The PWB was created by the Legislature to oversee the fiscal matters associated with construction of projects for state agencies, and to select and acquire real property for state facilities and programs. The PWB is also the issuer of lease-revenue bonds. The Legislature appropriates funds for capital outlay projects such as acquiring land, planning and constructing new buildings, expanding or modifying existing buildings, and/or purchasing equipment related to such construction. Through review and approval processes, the PWB ensures that capital outlay projects adhere to the Legislature's appropriation intents.

The Administration indicates that the January proposal is required to reconfirm the PWB's oversight authority of capital outlay projects because of a lower court ruling stating that the last amendment of this statutory authority violated the single subject rule. Because of the need to introduce this legislation, the PWB took the opportunity to provide further technical edits and clarification of these sections. However, since the Pooled Money Investment Board (PMIB) stopped authorizing interim financing loans to lease-revenue financed projects, the PWB has been exploring other interim financing options. This latter issue is addressed by the Governor's May Revision proposal.

Interim financing is the funds used until a bond funded project is sufficiently far enough along to sell bonds for it. The Administration indicates that since the PMIB stopped authorizing interim financing loans for lease-revenue financed projects, the PWB has changed its processes for issuing lease-revenue bonds from selling the bonds near the end of project construction to near the end of design. This results in the need to capitalize the costs of the project until the completion of construction. The Administration indicates that the state has approximately 50 projects stalled in the design phase that are not far enough along to issue bonds to complete the project. The May Revision proposal would address this issue by increasing the use of asset transfers, thereby enabling the PWB to restart some of these projects and decrease the cost of financing these assets by eliminating the need for capitalized interest costs. Historically, the ability to capitalize one asset and use the proceeds to build another has been restricted to higher education, and was used in only very limited situations. The May Revision trailer bill language request would allow the PWB to capitalize one state building and use the proceeds to fund the design/construction of one or more different state buildings.

Staff Comment. Staff raises no issue with the January Budget proposed trailer bill language. The proposed statutory changes contained therein are technical, clarifying,

and streamlining in nature and place capital outlay and design-build projects more under the umbrella of Department of Finance as opposed to the Department of General Services.

With regard to the Governor's May Revision proposal, staff agrees that there is a real need to address the interim financing issue. The Administration has identified a solution, which has also been reviewed by the Offices of the Treasurer and Attorney General. Additionally, the Administration has made a persuasive case as to why it is appropriate to pursue this trailer bill language within the budget arena. Quite simply, there are a number of lease-revenue bond financed projects proposed in the budget. The additional section amendments provide a very crucial interim financing option to enable the proposed projects to begin.

The LAO has informed staff that the Administration's May Revision proposal has numerous advantages and is consistent with trailer bill because it should help certain departments and the University of California move more quickly to expend bond proceeds that often are appropriated through the budget act. The LAO also notes that this is a practice that other governments utilize and, in some respects, it would seemingly reduce risks for bondholders and/or the state.

However, given that the May Revision trailer bill language represents substantive policy change, staff notes that the Subcommittee may wish to consider referring the May Revision proposal to policy committee for its analysis and recommendation.

Staff Recommendation. APPROVE the January Governor's Budget proposed trailer bill language. Without prejudice, REFER the May Revision trailer bill language to the pertinent policy committee for its analysis and recommendation with a request that the policy committee report back to the Subcommittee by June 5, 2010.

VOTE: Staff recommendation approved by a 3-0 vote.

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 24, 2010
1:30 a.m. (or upon adjournment of session)
Room 112

Consultant: Brian Brown

May Revision and Open Issues Part B

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

Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
	Department of Justice (0820)			
1	WSIN trailer bill language	-	Trailer Bill Language	Approve
	California Department of Corrections and Rehabilitation (5225)			
1	BPH commissioner composition – May Revise	-	Trailer Bill Language	Reject
2	Out of state beds sunset elimination – May Revise	-	Trailer Bill Language	Reject

Vote Only Items – Issue Descriptions

Department of Justice (0820)

Issue 1 – Western States Information Network (WSIN) Trailer Bill Language

On May 6th, the subcommittee approved the Department of Justice April Finance Letter request for a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of \$5,994,000 related to the WSIN. The DOJ has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. The change approved by the subcommittee made the technical adjustment to fund this program through reimbursement authority instead of federal funds.

Since that hearing, the DOJ has learned that current state law prohibits the sharing of crime or law enforcement data with a non-profit organization which would conflict with reconstitution of WSIN as a non-profit. Therefore, DOJ proposes the following language which would provide an exception for WSIN:

Add Penal Code section 11105.8

A nonprofit agency that is funded through 42 U.S.C. § 3796h(a) may be granted access to local, state or federal criminal justice system information available to law enforcement agencies, including access to the California Law Enforcement Telecommunications System, provided the nonprofit agency meets all other federal and state requirements for access to that information or system.

California Department of Corrections and Rehabilitation (5225)

Issue 1 – Board of Parole Hearings (BPH) Commissioner Composition

The administration proposes trailer bill language to change the composition and terms of commissioners on the Board of Parole Hearings (BPH). Currently, there are 17 commissioners appointed to the board, 12 of which hear adult matters, and 5 that hear juvenile matters. The administration proposes to add an additional commissioner to reach 18 total with 15 hearing adult matters and 3 hearing juvenile matters.

In addition, the commissioners currently serve three year terms with eight expiring one year and seven expiring the following year. The administration proposes to change terms to four year terms with six terms expiring each year.

Staff recommends rejecting this trailer bill language. Given the nature of the changes proposed, it would be more appropriate for this bill to go through the traditional policy process. Moreover, it remains unclear whether the proposed changes are necessary. The BPH is under federal court order in the *Lugo* case to reduce a historic backlog of lifer hearings. However, the department has already been largely successful in that effort to date without the additional adult commissioners. Specifically, while the number of backlogged hearings was 221 in March 2008, it was only 111 as of December 2009 (and had reached as low as 87 in June 2009). Moreover, the recent passage of Marsy's Law (Proposition 9) in 2008 should reduce the number of lifer hearings scheduled each year.

Issue 2 – Out of State Bed Sunset Elimination

The Governor's May Revision proposes trailer bill language that would eliminate the January 1, 2012 sunset on the department's ability to transfer state inmates to out of state facilities. Staff recommends rejection of this language at the present time to allow it to be considered through the policy process, particularly given the lack of urgency to enact it now since the sunset does not expire for another year and a half.

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 and May Revision include 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 total General Fund reduction in 2010-11 of \$206.1 million to reflect new revenue from the Automated Speed Enforcement proposal;
- A General Fund reduction of \$13 million to reflect anticipated savings from implementing electronic court reporting;

- An increase of \$60 million to the Trial Court Trust Fund to reflect increased expenditure authority from a \$15 increase in the trial court security fee;
- A General Fund augmentation in 2010-11 of \$100 million to restore the trigger reduction included in the 2009 Budget Act. However, this funding was also included in the Governor's January 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 – Courts Funding Package

Background. The 2009-10 Budget Act included \$393 million in General Fund reductions to the Judicial Branch to help balance the state budget. The budget further assumed that these reductions would be achieved through various changes, including the following:

- Statewide court closures of one day per month (\$102 million),
- Use of trial court reserves (\$71 million),
- Use of statewide fund balances (\$130 million),
- Various fee increases (\$58 million), and
- Absorption of State Appropriations Limit (SAL) increase (\$32 million).

Staff Comments and Recommendation. Many have raised concerns with the impact of statewide court closures on the state's justice system. Given those concerns, legislative staff have worked with the Judicial Branch and court stakeholders to craft a series of solutions that would (1) maintain ongoing General Fund reductions, (2) avoid the \$100 million trigger cut proposed by the Governor in January, and (3) eliminate the need for statewide court closures in the budget year.

The following table lists staff's recommended solutions to achieve the above stated goals.

Recommended Solutions for 2010-11
(In millions of dollars)

Solution	2010-11 Amount
One-time transfer court construction balances ⁽¹⁾	\$98.4
One-time transfer of fund balances ⁽²⁾	\$31.6
\$10 court security fee increase	\$40.0
Summary judgment fee increase from \$250 to \$500	\$6.2
Telephonic hearings fee of \$15	\$7.5

\$40 per citation fee on automated traffic enforcement vendors	\$28.0
First paper fee increase (\$40, \$40, \$20)	\$40.1
Pro hac vice fee increase from \$250 to \$500	\$0.8
Parking fee surcharge increase of \$3	\$10.5
Total	\$263.1

⁽¹⁾ Immediate and Critical Needs Account (ICNA) and State Court Facilities Construction Fund (SCFCF)

⁽²⁾ Trial Court Trust Fund, Modification Fund, Improvement Fund

The recommended actions include following specific changes:

1. Court Construction Balances-- \$73.4 million from ICNA and \$25 million from SCFCF.
2. Court Security-- \$10 increase for trial court security (instead of the \$15 increase proposed in Governor's May Revision).
 - a. Lift the sunset on the existing \$10 court security fee;
 - b. Add an additional \$10 court security fee.
3. Summary judgment-- Increase the motion for summary judgment filing fee by \$250 to \$500 and directs the fee to trial court operations.
4. Telephonic hearings-- Establishes a \$15 fee on every telephonic hearing and directs the fee to trial court operations and requires the Judicial Council to enter into a master contract for a vendor to provide telephonic appearances.
5. Automated traffic enforcement assessment—Requires automated traffic enforcement vendors to pay a fee for each citation filed with the court.
6. First paper filing fee increase-- Proposes an increase in the first paper (initial) filing fee and defendant's response of \$40 for unlimited civil cases and \$20 for limited civil cases and directs increase solely to trial court operations.
 - a. Sunsets on June 30, 2013 with a moratorium in the meantime;
 - b. Fee increase directed to fund court operations;
 - c. Trigger that would reduce the filing fee if General Fund to court is reduced;
 - d. Propose statutory provisions to ensure courts do not implement local closures and service reductions unless required by fiscal constraints, prevent disproportionate impact of any reductions on civil cases consistent with the US and California constitutions, and civil efficiency reforms.
7. Pro Hac Vice-- Increases the fee for pro hac vice appearances – by out-of-state attorneys not members of the California Bar – by \$250 to \$500 and requires an annual renewal fee in the same amount and directs the fee increase to trial court operations.
8. Parking citations-- Increases parking citation penalty by \$3.00 and directs to trial court operations.

Issue 2 – 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 and Recommendation. Staff recommends rejecting this proposal. In light of the recommended courts funding package discussed in Issue 1 above, \$25 million would be transferred from the SCFCF on a one-time basis as a budget solution. While this could leave \$10 million of the request for facility modifications, it is unclear that additional augmentations should be the first priority for this fund in the short-term. In addition, it is also worth noting that funding for facility modifications will increase in the budget year anyway given the proposal approved last year to provide additional funding from ICNA.

Staff also recommends that the AOC be required in Supplemental Reporting Language to provide a detailed list and description of projects proposed to be funded for all three years to give the Legislature the opportunity for review of those projects. The Legislature will then have the opportunity to take action in the 2011-12 Budget with respect to projects planned in that fiscal year.

Issue 3 – Automated Speed Enforcement

Governor’s Budget and May Revision Requests. The Governor’s January budget proposed trailer bill language authorizing automated speed enforcement (ASE) in California. The administration estimated this proposal would have generated \$337.9 million if implemented as part of the Eighth Extraordinary Session. The Governor proposed to use \$296.9 million of this new revenue to offset state General Fund spending in the Judicial Branch and to use \$41 million to augment the Branch’s budget for court security.

Under the Governor’s January proposal, there would be a tiered penalty, with a fine of \$225 for speed violations up to 15 miles per hour over the posted speed limit, and \$325 for speed violations greater than 15 miles per hour over the posted speed limit. The Governor proposed that 85 percent of the revenue generated would go to the Trial Court Trust Fund to offset General Fund expenditures, and 15 percent would be retained by local governments to operate the program and reimburse speed enforcement camera vendors.

Because the Legislature did not adopt automated speed enforcement as part of the special session, the Governor’s May Revision revised the estimated budget year revenues downward, resulting in reducing the General Fund offset amount by \$90.8 million. The Governor also removed his proposal to augment trial court security by \$41 million from these revenues because of the trial court security fee increase described above. The Governor also revised his proposal for a tiered penalty structure to make the fine levels consistent with officer issued tickets. The table below summarizes the fiscal impacts of the January and May Revision proposals.

Summary of Governor’s January and May Revision ASE Proposal Amounts
(In millions of dollars)

Automated Speed Enforcement	2010-11
Governor’s Budget	
Revenues	\$337.9
General Fund offset	\$296.9
Trial court security augmentation	\$41.0
May Revision	
Revenues	\$206.1
General Fund offset	\$206.1
Trial court security augmentation	\$0

Staff Comments. The Legislature heard the Automated Speed Enforcement proposal during special session hearings earlier this year and chose not to adopt the proposal based on several concerns, including whether revenue estimates were realistic, whether there might be unintended traffic safety consequences, and the difference in fine structure proposed for motorists receiving a ticket from the ASE program versus from a peace officer.

Staff Recommendation. In light of the concerns raised by committee members during the special session, staff recommends rejection of the ASE proposal, including both the January proposal and the May Revision adjustment. This will result in the restoration of General Fund support for the Judicial Branch to backfill the lost ASE revenues budgeted by the Governor. In light of ongoing state budget shortfalls, staff recommends that the General Fund amount is restored less \$50 million to benefit the state General Fund.

Issue 4 – Judicial Branch Budget Transparency

Background. On May 12th, the Assembly Budget Subcommittee #4 reviewed recommendations made by the Assembly Committee on Accountability and Administrative Review, as well as other issues, regarding ways to add transparency to the Judicial Branch budget. The Assembly budget subcommittee adopted the following proposals:

- 1. Require the Administrative Office of the Courts to annually provide an Operating and Expense (OE&E) Schedule.** An O&E Schedule depicts spending trends on items such as travel and outside consultants. Executive branch agencies annually provide these with the budget; the AOC currently does not.
- 2. Require that the courts' annual budget provide more detail regarding the Trial Court Trust Fund (TCTF).** There is no breakdown in the budget depicting spending on items such as security or information technology, whose aggregate costs total more than \$1 billion annually. The AOC should coordinate with the Budget Committees and Department of Finance to agree on the proper line items.
- 3. Revise Provision 5 of Item 0250-101-0932 to require DOF and legislative approval and require a copy of requests to be provided to the Legislature at the same time of submittal to DOF.** Provision 5 of the budget item for the Trial Court Trust Fund (TCTF) provides the Director of Finance the authority to augment the amount budgeted by the Legislature from the balance available in the TCTF. Provision 5 currently states that before any such augmentation can be made, the Department of Finance must provide notification to the Legislature. However, approval is not expressly required. In the current year, the AOC submitted a request for a \$24 million increase under this provision.
- 4. Require legislative notice for intraschedule transfers.** Currently, Provision 1 of Items 0250-001-0001 and 0250-101-0952 exempt the courts from the Section 26 requirement that requires other agencies to report transferring monies among different programs in the same fund. Executive branch agencies are required to report any transfer in excess of \$200,000 or 10 percent of the amount appropriated in the item to the Legislature at least 30 days prior to the transfer. The Legislature could ask that the Judicial Council follow the same procedure.

Staff Comments. All four of these proposals would add additional transparency to the Judicial Branch's \$3.8 billion budget. Staff with AOC has informed the committee they raise no objections to the first three actions – regarding OE&E schedules, providing more detail on program funding in the TCTF, and modification of Provision 5 - taken by the Assembly subcommittee.

However, the AOC does raise concerns regarding requiring 30-day notification to the Legislature of any intraschedule transfers. According to AOC, this notification process could limit their ability to respond quickly to local court budget and cash needs. However, it is unclear that this concern is very different for the Judicial Branch than for other state agencies with local budget operations. Moreover, staff notes that the Legislature may waive the 30-day waiting period when necessary. Finally, it is important to remember that the purpose of Section 26 – the provision requiring most state agencies to report significant budget changes – is to ensure that the appropriation authority constitutionally vested in the Legislature is not abrogated by another branch of government.

Staff Recommendation. Approve all four of the transparency proposals already adopted by the Assembly budget subcommittee.

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 – Domestic Violence Shelter Funding

Background. In the 2009-10 fiscal year, the Governor's line-item veto eliminated all funding - \$20.4 million – from the Department of Public Health's (DPH) Domestic Violence Program which supported 94 domestic violence shelters.

Last year, the Legislature used SBx3 13 (Alquist) to amend the Budget Act of 2009, to require the Department of Finance to transfer \$16.3 million (a 20 percent reduction) from the Alternative and Renewal Fuel and Vehicle Technology Fund (ARFVT) to the General Fund to fund domestic violence shelters. Among other changes, Senate Bill 13: (1) specified that the \$16.3 million was a loan to be repaid with interest by June 30, 2013; (2) changed the administration of the shelter-based program from the Department of Public Health to CalEMA; (3) allowed CalEMA to use 10% of the appropriation for administrative purposes and (4) required grant recipients to provide a 20 percent match in funding or in-kind services.

In addition to these state dollars, domestic violence shelters receive federal funds through the Family Violence Prevention Services Act (FVPSA), Violence Against Women Act (VAWA), and Victims of Crime Act (VOCA) which are administered by CalEMA. Of the total \$54.9 million in grants provided from these programs in California in 2009-10, \$13.3 million

was awarded to domestic violence shelters. The CalEMA projects an increase of \$6.9 million in federal funds for these three programs in the budget year.

Governor's Budget. The Governor's budget did not restore funding for domestic violence shelters.

Staff Comments. The funding from the program vetoed by the Governor – and restored on a one-time basis through a special fund loan by the Legislature - represents roughly 20 percent of funding for domestic violence shelter funding recipients in California. Loss of this funding in the budget year could result in significant impact to domestic violence shelter operations statewide, including closure of some shelters. The Assembly Budget Subcommittee #4 approved a General Fund augmentation of \$20.4 million for domestic violence shelters to restore funding to the level budgeted by the Legislature in the 2009-10 budget before it was vetoed by the Governor. The Assembly committee further specified that only 5 percent of the funding could be retained by CalEMA for grant administration.

Staff further notes that research finds that domestic violence rates increase during bad economic times, making it perhaps particularly important to provide funding for these programs now. According to the California Partnership to End Domestic Violence, there were about 44,000 domestic violence arrests in California in 2006, and there were 119 murders committed as a result of intimate partner violence in California in 2007. Nationally, approximately 1.5 million women and 800,000 men are raped or physically assaulted by an intimate partner each year.

Staff Recommendation. Approve total of \$20.4 million for domestic violence shelters, including \$19.1 million General Fund and \$1.3 million Federal Funds. The \$1.3 million amount reflects the commensurate share of the projected \$6.9 million increase in funding from the FVPSA, VAWA, and VOCA programs that normally is provided to domestic violence shelters. Staff further recommends limiting administration costs for this program to 5 percent, consistent with the action of the Assembly budget subcommittee.

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 its 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	\$0	-\$48,170,000
Legal Services Revolving Fund		\$48,170,000
PY's	0	0

Governor's May Revision. In response to concerns raised in budget subcommittee hearings, the administration revised its proposal in the May Revision. These revisions included (1) augmenting the General Fund amount by \$5 million, (2) removing Control Section 5.20, (3) adding budget bill language providing direction on the allocation of these resources to client departments based on 2009-10 usage levels, and (4) providing a separate allocation item for land law clients.

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, concerns have been raised with the administration's proposal. First, DOJ has only collected one full year of data on the number of hours General Fund clients have used DOJ's legal services. Therefore, it is unclear how much annual variation departments have in their legal services needs, making it difficult to ascertain with certainty if current year usage levels would provide an accurate baseline for department funding levels. Therefore, it may make sense to collect another year or two of actual usage data to examine annual variation for different departments, as well as consider whether there would need to be created some mechanism to address special circumstances where a particular department's need for legal services changed significantly from its baseline in future years.

Second, some have pointed out that while less transparent for budgeting purposes, the current process has the advantage of providing greater budgeting flexibility by bundling the legal resources for all General Fund departments together. So, if there is annual fluctuation in departments' need for legal services, chances are that in many years that need may be

higher than usual for some departments while lower than usual for others. Under the current system, DOJ can simply devote its legal staff resources to the clients who need it more in a given year without having to seek a mid-year budget change. On the other hand, moving to a system like that proposed by the administration, it is likely that departments would need to seek budget deficiencies if their legal usage increased to a level beyond what they were budgeted for and could absorb internally. This could result in increased costs to the state, though it is also worth noting that unspent legal services funds by other departments that had used less than budgeted should revert to the General Fund.

Staff Recommendation. Reject. While the approach sought by the administration and DOJ has merit, staff recommends that the department continue to develop the proposal with the assistance of its client departments and gather at least one more year of actual data on usage by its clients. At that time, it would be worthwhile for the committee to reconsider this proposal.