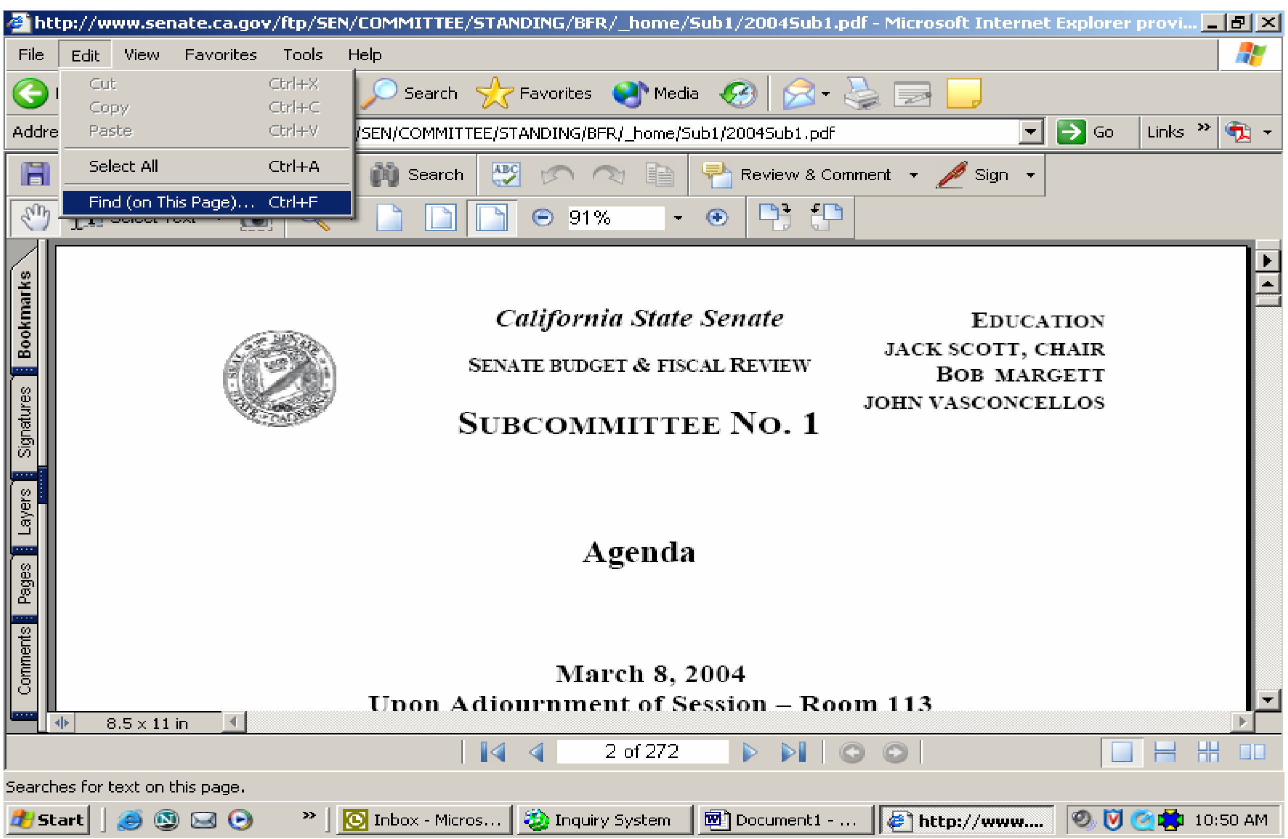
Senate Budget and Fiscal Review

Subcommittee No. 4 Pt 1 2008 Agendas

Complete year 2008 Subcommittee No. 4 agendas in PDF format. They are archived in Adobe to make them more accessible by subject. Please use “Edit” then “find” from the Menu to access information. Use “Bookmarks” from side menu To access agendas by date.



SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Senate Budget and Fiscal Review Subcommittee #4 on State Administration, General Government, Judicial and Transportation

March 12, 2008
9:00 a.m.
Room 113

Overview of California's Criminal Justice System

1. *Kara P. Dansky*, Executive Director
   Stanford Criminal Justice Center
   - Overview and History of California's Parole System

2. *Barry Krisberg*, President
   National Council on Crime and Delinquency
   - Research on Effectiveness of a Community Corrections Model

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Wednesday, March 12, 2008
9:00 a.m. - Room 113

5525 California Department of Corrections and Rehabilitation

Background. The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit 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 grants to local governments for crime prevention programs.

The department operates 33 adult prisons, including 11 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 eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 44 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 202 adult and juvenile parole offices.

In 2005, the 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 were consolidated into CDCR. The departments consolidated into the current CDCR are: the Youth and Adult Correctional Agency; the California Department of Corrections; the California Youth Authority; the Board of Corrections; the Board of Prison Terms; and the Commission on Correctional Peace Officers' Standards and Training.

2008-09 Governor's Budget Summary

Overall Budget Summary. The Governor's budget proposal includes $10.1 billion ($9.8 billion General Fund) for CDCR operations in 2008-09. This is only $14 million, or less than 1 percent, above the revised estimated expenditure levels in the current year.

The department's budget includes increased spending for projected increases in the prison and parole populations; inmate and parolee rehabilitation programs; responses to federal court cases relating to inmate medical and dental care and other issues; peace officer recruitment and training; and inflation adjustments.

This additional spending is largely offset by the Governor's proposed budget reductions related to reducing the inmate and parolee populations through (1) release of certain inmates from prison up to 20 months early and (2) summary parole supervision.

Figure 1 shows the total operating expenditures estimate contained in the governor's budget for the current year and proposed for the budget year. The large increase in Administration expenditures is mainly due to one-time expenditures related to a major effort to update the department's information technology infrastructure.

Figure 1: Total Expenditures for CDCR Operations

Summary of Expenditures			Change	
(Dollars in Millions)	2007-08	2008-09	Amount	Percent
Program				
Administration	$310	$463	$153	49.4
Juvenile Institution and Parole	580	554	-26	-4.5
Adult Institution and Parole	8,761	9,006	245	2.8
Board of Parole Hearings	111	118	7	6.3
Corrections Standards Authority	308	302	-5	-1.7
Community Partnerships	12	14	2	13.9
Subtotal	$10,081	$10,457	$375	3.7
Budget Reduction Proposals	-18	-379	-361	0.0
Total	$10,063	$10,078	$14	0.1

Adult Inmate and Parolee Population Estimates. The Governor's budget is based on projections that the average daily inmate population and adult parolee population in the current year is higher than anticipated in the 2007 Budget Act. The Governor proposes $14 million

General Fund to address this growth in the current year. Estimates for the adult inmate and parolee populations in the budget year are also estimated to grow beyond the current year levels. The Governor proposes $77.2 million General Fund to fund growth in the adult inmate and parolee population for 2008-09.

The 2008-09 average daily adult inmate population is anticipated to be 177,021 and the average daily adult parolee population is anticipated to be 133,061, which is 1.7 percent and 2.9 percent higher than the estimate in the current year, respectively. The estimated inmate population for the current year is 173,993.

The actual inmate population is on track to be significantly less than what is projected for the budget year. As of the end of February, CDCR has 170,090 inmates, which is fewer than what they had at the start of the current fiscal year. The actual parolee population is also on track to be about 2,000 fewer than the projection in the current year. These numbers, as in the past, will be adjusted in the May Revision for both the current year and the budget year.

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

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

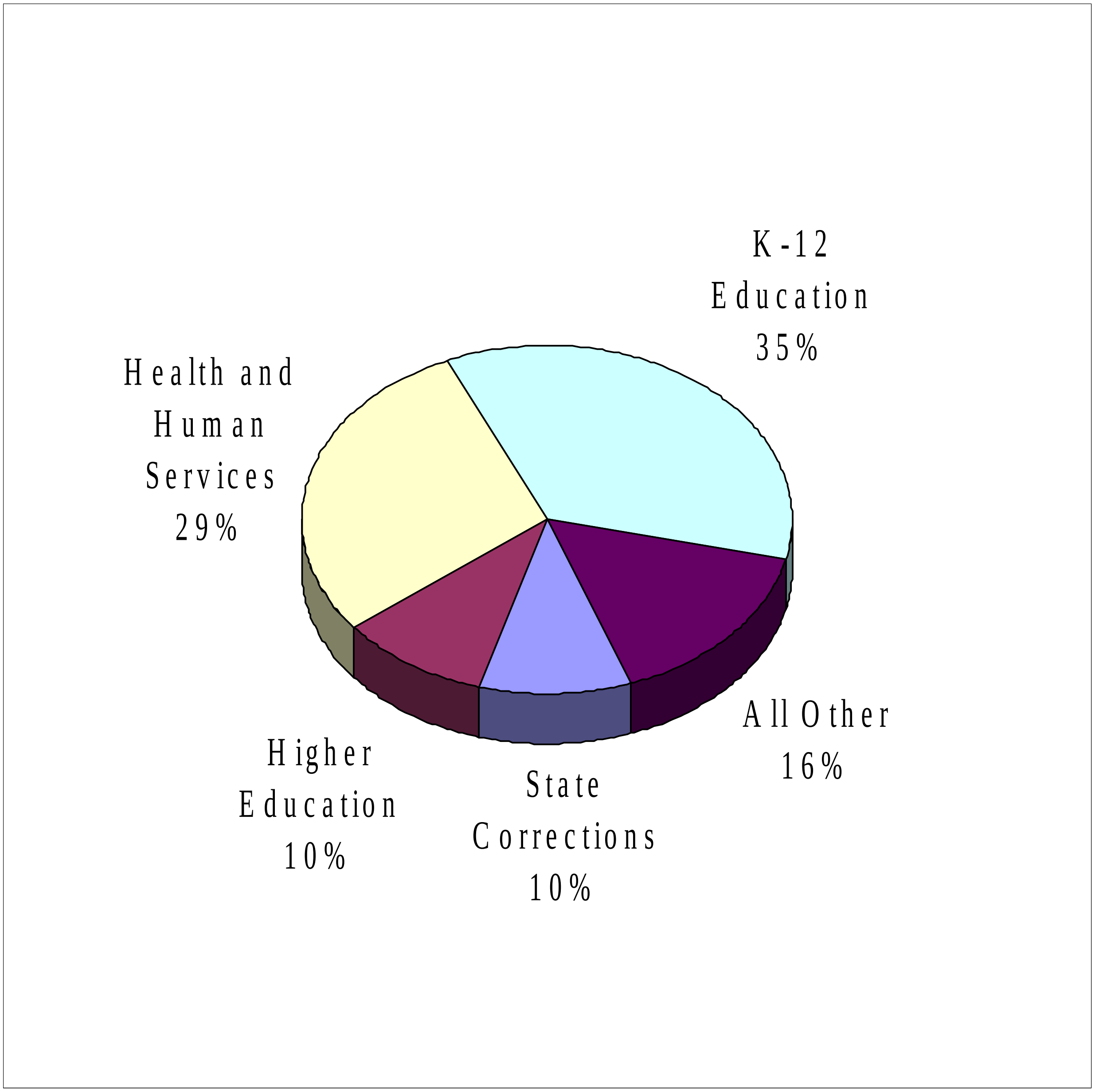
Correcting Inmate Release Dates. Recent press and a lawsuit have raised awareness of a problem CDCR has had in correctly calculating inmate release dates. The lawsuit alleges that up to 33,000 inmates release dates have been miscalculated which has resulted in CDCR incarcerating individuals past their appropriate release date.

This problem has arisen mainly due to a shortage of trained case records staff at prisons around the state, which has resulted in a backlog of cases. The department has indicated that eliminating this backlog could reduce as many as 600 beds in the budget year. The department plans to use overtime in the current year to help address this backlog, but will most likely need to hire additional staff to address this problem in the short term until a more automated system can be put in place.

State Corrections in State Budget Context. The Governor has proposed General Fund spending of $101 billion for 2008-09, a decrease of 2.3 percent. The CDCR accounts for approximately 10 percent of total state spending. The Governor's budget proposes to expend about the same funding level on CDCR operations as it does on all higher education (CSU, UC, and Community Colleges).

Figure 2 shows proposed state spending for CDCR versus other major state programs.

Figure 2: Proposed Total State Spending by Major Program Area, 2008-09

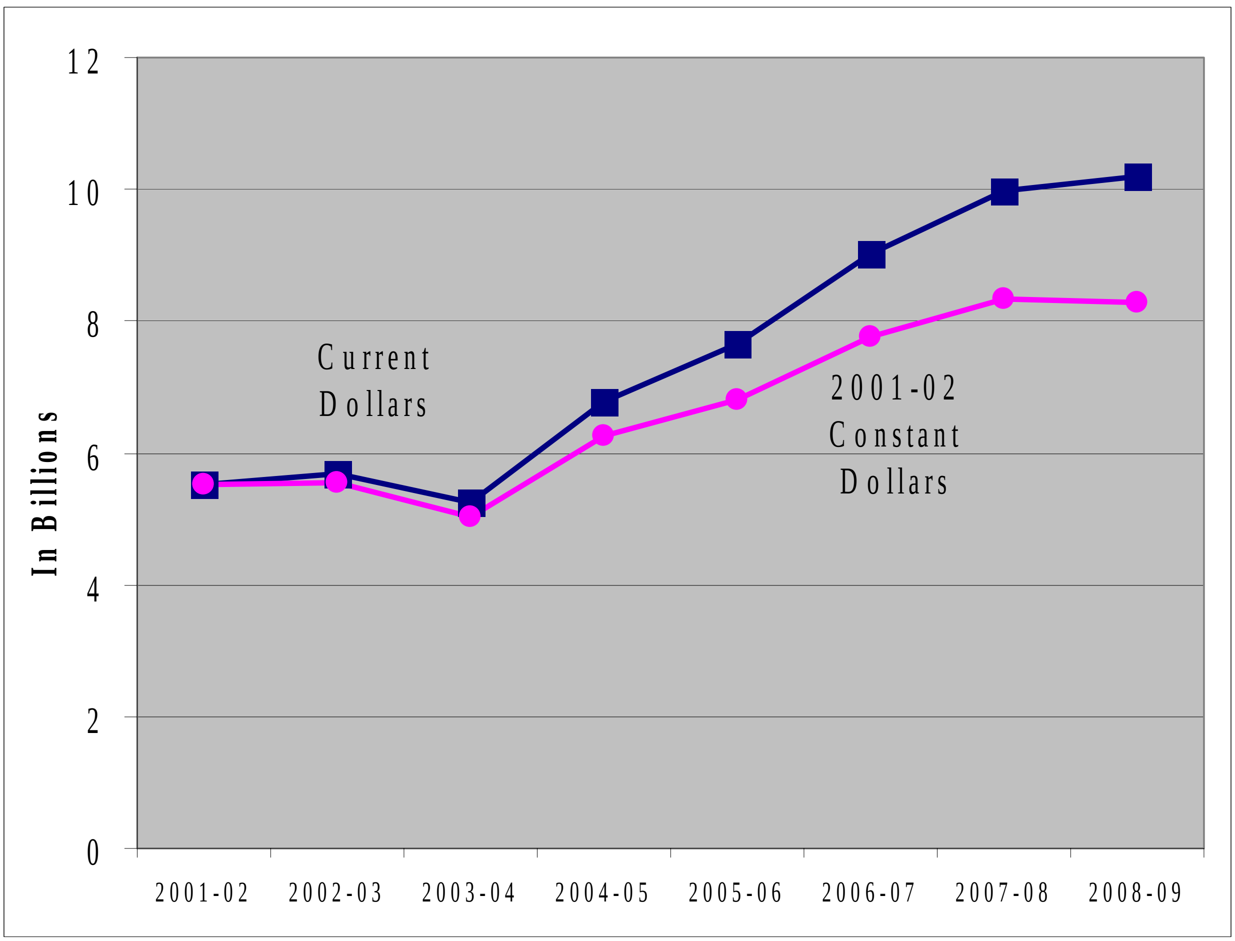


CDCR Budget Historical Trend. General Fund expenditures to support CDCR operations have grown by $4.7 billion, or 84 percent, between 2001-02 and 2008-09, an average annual increase of 9 percent. Expenditures increased over this time mainly due to (1) increased labor costs to operate the state corrections system and (2) court-ordered expansions and improvements of inmate services, particularly for inmate health care services.

Even after adjusting for inflation (constant dollars), General Fund expenditures to support CDCR operations have increased 50 percent from 2001-02 through 2008-09, which is the equivalent of a $2.8 billion increase in purchasing power.

Figure 3 shows the growth in CDCR's budget over the past seven years in current dollars and after adjusting for inflation.

Figure 3: Growth in CDCR Expenditures Over Time



Parole Policy Background and Evaluation

History of Parole. For nearly a century, parole was an integral part of the United States' approach to sentencing and corrections. In the model of indeterminate sentencing that dominated in the 20th century, parole played three critical roles.

- First, the parole board would determine the actual length of the prison sentence. Under indeterminate sentencing a judge would sentence an offender to a prison term, specifying a minimum and maximum term. The parole board would then decide on a case-by-case basis whether a prisoner was ready to be released into a community.
- Second, parole agencies would supervise recently released offenders in the community for the remainder of their sentence. Under an indeterminate sentencing model, a prisoner released to parole is still serving a criminal sentence, in the community rather than in prison, and must abide by a number of conditions established by a parole board at the time of release.
- Finally, parole officers and parole boards were authorized to revoke a parolee's conditional liberty and return him or her to prison if a parole officer determines that the parolee has failed to observe a condition of his or her release.

Under the indeterminate sentencing philosophy, the judicial and executive branches of government exercise substantial discretion over the length of a prison sentence and period of parole supervision.

In the late 1970's there was a nation-wide movement towards a determinate sentencing system in a movement referred to as "Truth in Sentencing". There was a considerable amount of concern at the time that offenders were not spending enough time in prison and that the primary goal of sentencing should be punishment and retribution as opposed to rehabilitation.

In 1977 California moved from an indeterminate sentencing system to a determinate sentencing system. The movement towards determinate sentencing restricted the role of the Judiciary in setting penalties for offenders. The reform also significantly reduced reliance on parole boards by switching to a mandatory release system, thereby restricting the role of the Executive Branch. Under determinate sentencing, the Legislature became more powerful in determining sentencing policy.

Parole Definitions. There are three ways in which inmates are released from prison in the United States. Most states use a mix of the following three types:

- **Mandatory Release**. Mandatory releases occur when a prisoner is released after he or she has served his original sentence, less any accumulated good time credit. Inmates released under a mandatory release system have not received a determination of fitness to return to the community from a parole board or other authority. This is the primary mode of release under a determinate sentencing system like the system in California.
- **Discretionary Release**. Discretionary releases involve a parole board or other authority making a determination of fitness to return to the community. This determination could be made before a prisoner has served his or her full sentence, and would result in the offender serving the remainder of his or her sentence under community supervision. This is the primary mode of release under an indeterminate sentencing system.

- **Unconditional Releases.** Unconditional releases leave prison after serving their sentence and exit prison without any conditions of release or community supervision. In other words, unconditional releases are not placed on parole.

Evaluation of Parole Programs. A recent study conducted by the Urban Institute followed three cohorts of offenders with similar demographics and criminal histories. Each cohort represented offenders that were released from prison to parole by way of mandatory release, discretionary release, and those that were released unconditionally, without parole supervision. The study found that parole supervision had little effect on re-arrest rates of released prisoners.

The study found that mandatory parolees, who account for the largest share of released prisoners in the United States and the vast majority of parolees in California, fare no better on supervision than similar offenders released without supervision.

The study found that parole supervision did benefit certain offenders. For example, females, individuals with few prior arrests and technical violators were less likely to be rearrested if supervised after prison. However, of the largest groups of released prisoners—male drug, property, and violent offenders—only property offenders released to discretionary parole benefited from supervision. This study suggests that the overall effect of parole supervision is minimal for the majority of offenders. In California we expend approximately $1.3 billion on our parole program, on average just over $10,000 per parolee.

This study confirms what national parole experts have long suspected--that the current system of parole supervision is generally ineffective. Research has suggested many different reasons for why parole, as typically implemented, is not as effective as it could be. Some of these reasons include the following:

- Parole supervision for most offenders is really quite minimal—parolees may meet with their parole agent for about 15 minutes once or twice a month.
- Parole officers are often located far from the neighborhoods where parolees reside and may not understand the situational context that geographically oriented supervision could provide.
- The transition from a service orientation to a surveillance oriented strategy centered on monitoring behavior and detecting violations may be reducing the effectiveness of parole. Prior studies have shown that surveillance alone will not invoke change in offender behavior.

Despite the disappointing evidence on the relative ineffectiveness of parole supervision, it is important to note that unconditional releases were just as likely to re-offend upon release. Therefore, the most important outcome of a study like this is to rethink and revise parole supervision as we know it to produce better public safety outcomes.

California's Parole Policy

California's Current Parole System. California, for the most part, has a *mandatory* release system. This means that an offender is released after he or she has served his original sentence, less any accumulated good time credit. Mandatory releases have not received a determination of fitness to return to the community from a parole board or other authority. In California it is current practice to place all offenders on parole for a three-year period. This system was adopted after California switched from an indeterminate to determinate sentencing system in the late 1970s.

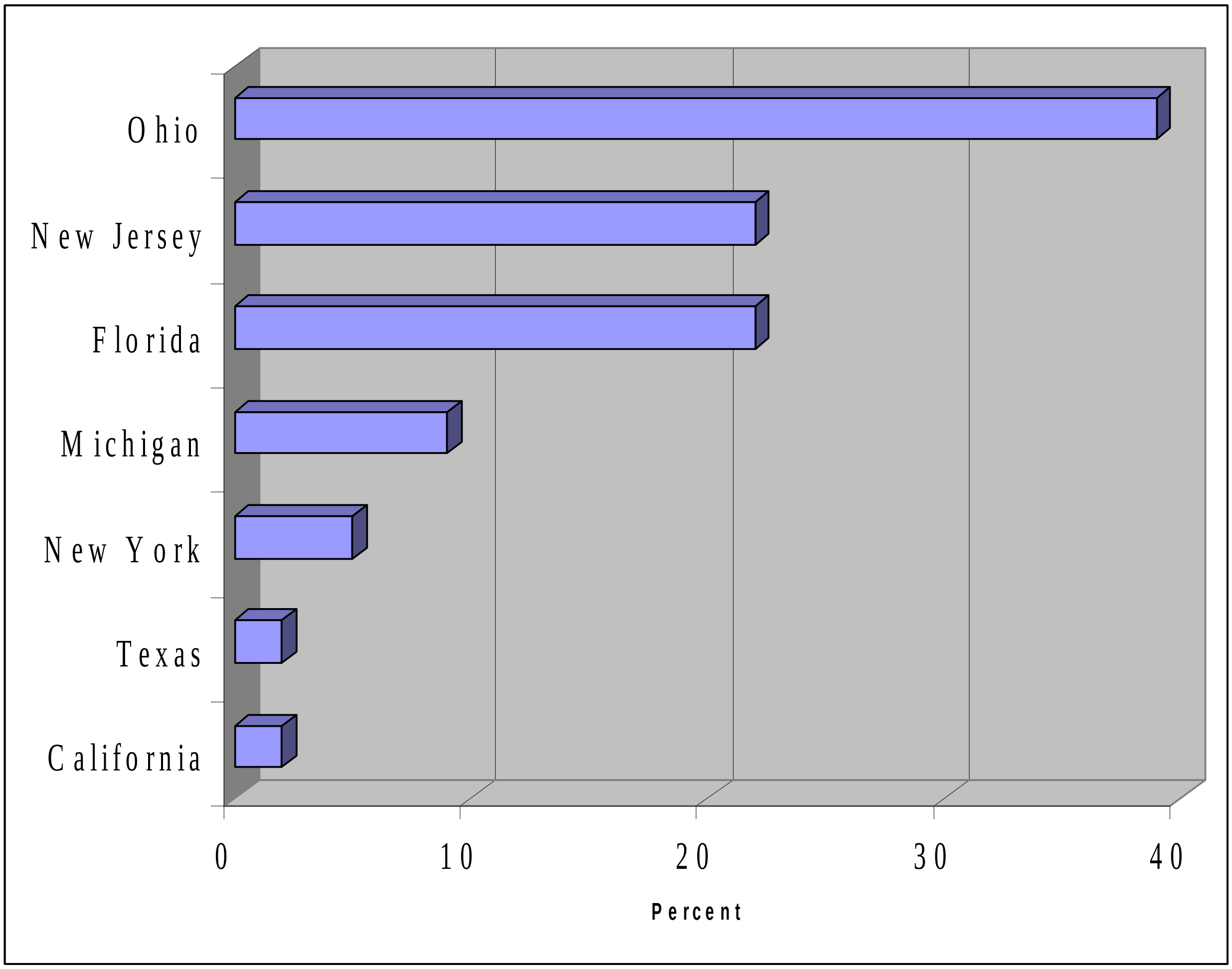
Offenders sent to prison on a life-term are the only prisoners subject to *discretionary* release, which means that a determination of fitness is required by the Board of Parole Hearings and the Governor before the offender can be released. In these cases the Board of Parole Hearings makes the final determination of the conditions and length of the parole period. In the case of murder, an offender may be on parole for life.

Currently, the majority of parolees in California are supervised at a 70:1 parolee to parole agent ratio. However, many parolees considered low-risk are supervised at an over 100:1 parolee to parole agent ratio. This means that realistically most parolees see their parole agent for 15 minutes every other month or less frequently. The Division of Adult Parole Operations also has several specialized caseloads that receive a higher level of supervision, including sex offenders and second-strike offenders. These offenders are being supervised on a 40:1 parolee to parole agent ratio.

How California Parole Practices Differ from Other States. California's parole policies are considerably different from other states and overall California chooses to supervise a much broader class of offenders on parole than most other states and makes virtually no unconditional releases.

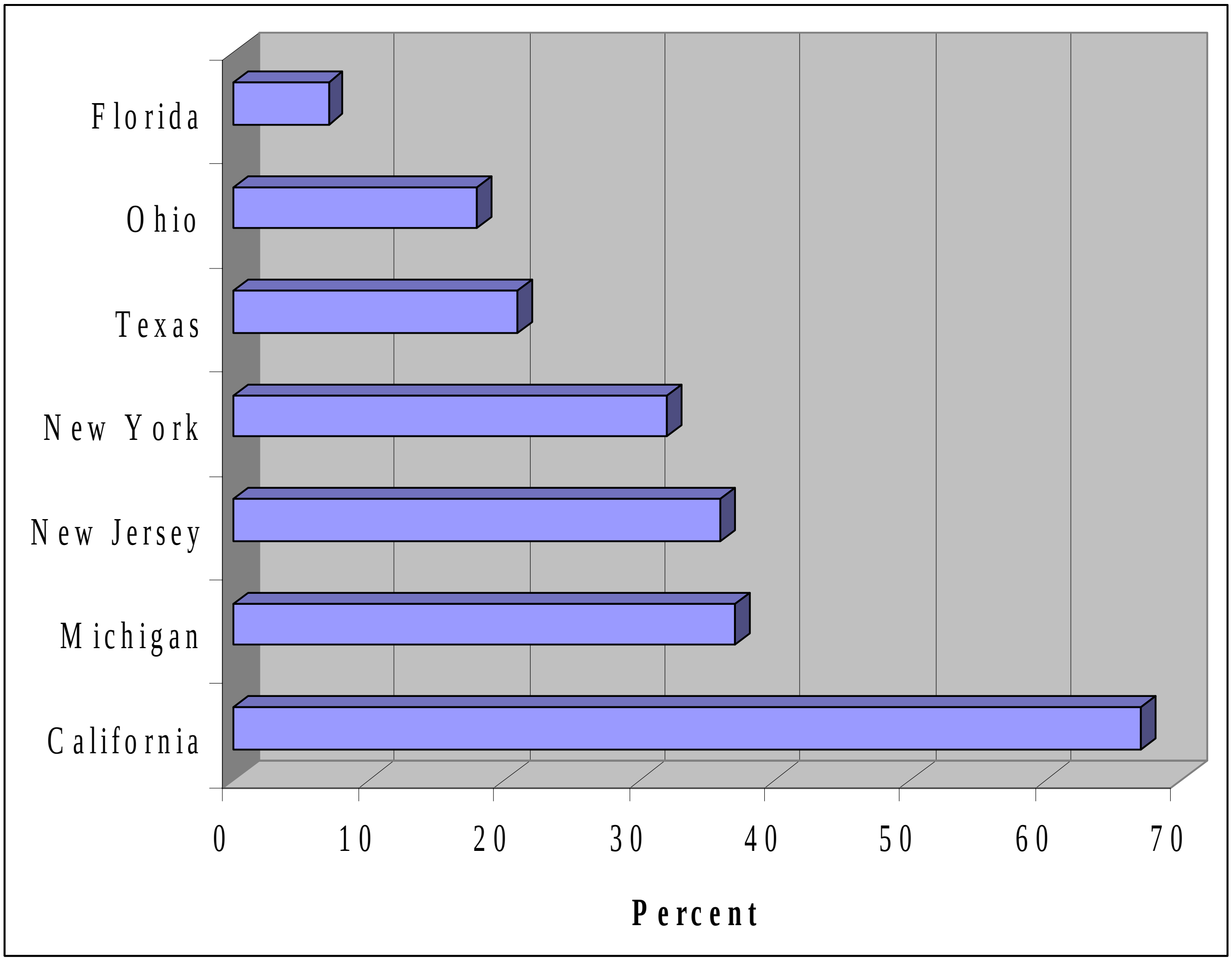
- **California Has a Low Number of Unconditional Releases.** Figure 4 illustrates that California makes virtually no unconditional releases from state prison. In other words, nearly all inmates released from prison in California are placed on parole. Figure 4 shows only a sampling of states, but when compared to all of the other states, California made the fewest unconditional releases.

Figure 4: Share of Prisoners Released Unconditionally in 1994, by State



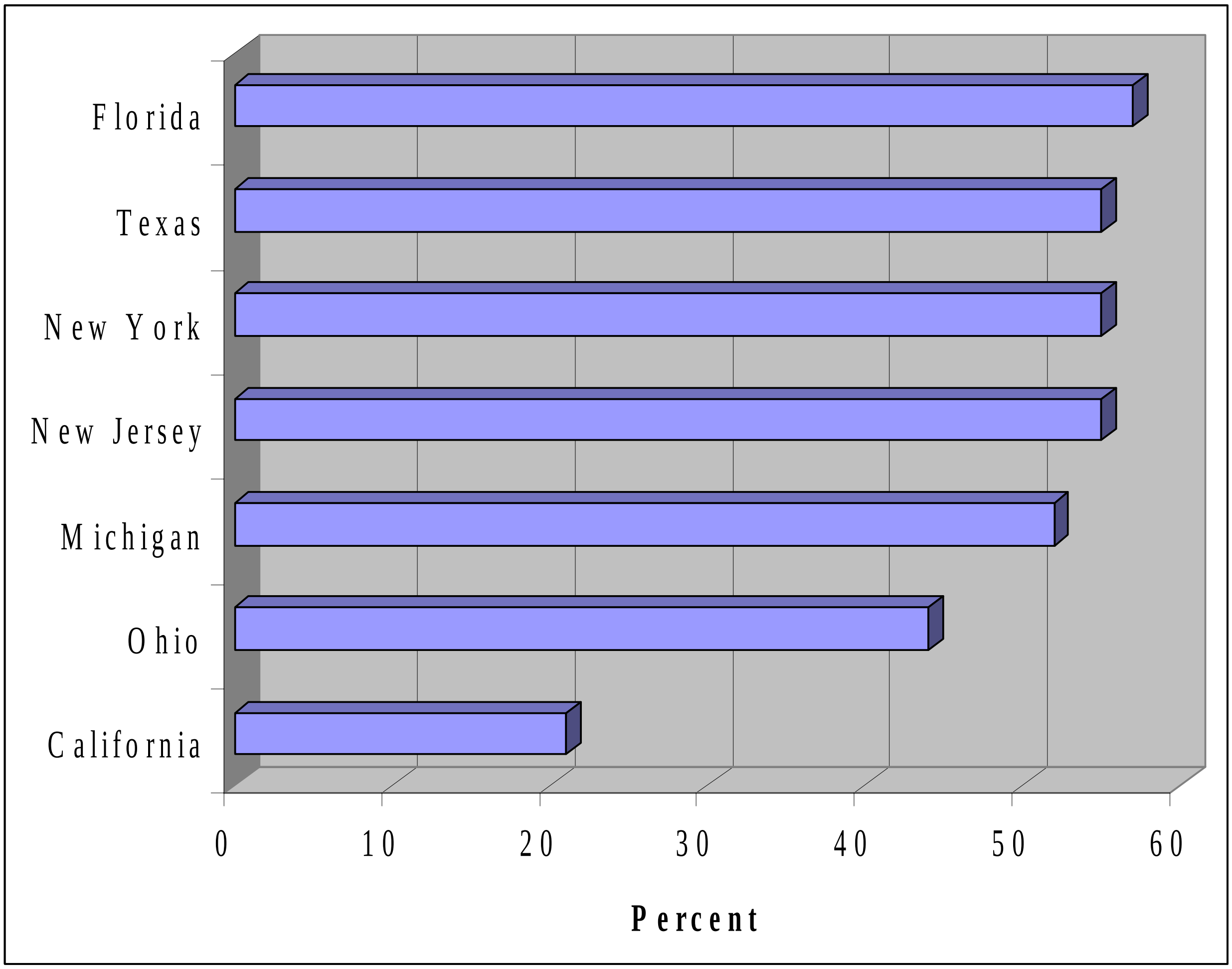
- **California Has Highest Percentage of Parole Violators in Prison.** California overwhelmingly returns more parolees to prison than any other state. In 1999 parole violators accounted for over 67 percent of state prison admissions in California, which was the highest rate nation-wide. Figure 5 shows how the percentage of prison admissions that are parole violators varies significantly across the United States.

Figure 5: Percent of Parole Violators among Admissions to State Prison in 1999, by State



- **California Has One of the Lowest Success Rates for Parolees.** California also has one of the lowest success rates for parolees defined by the percentage of offenders that are successfully discharged from parole. On average, California only discharges about 20 percent of offenders successfully from parole. There are many variables that make it difficult to compare rates of discharge across states, but that being said the rest of the nation discharges successfully a much higher proportion of offenders from parole (more than 50 percent on average) than California. Figure 6 shows the range of different success rates as defined by the percentage of offenders that are successfully discharged from parole.

Figure 6: Percent Successful Among State Parole Discharges in 1999, by State



Governor's Population Management Proposals

Summary. The Governor has proposed addressing the projected budget shortfall in the budget year by adopting a 10 percent across-the-board reduction to most all programs in state government. In order to meet this 10 percent reduction target in CDCR the Governor is proposing two policy changes—20-month early release and summary parole—that would significantly reduce the state's inmate and parolee populations. The Governor is not proposing any other reductions to the department's budget. The department estimated that, if implemented by March 1, 2008, these proposals would generate $354 million in estimated savings in the budget year and $758 million in 2009-10.

Under the Governor's proposal, CDCR would not realize a 10 percent reduction to its operations until 2009-10. Since the Legislature has not acted on these policy changes, the DOF estimates that budget year savings would be significantly diminished—well over $100 million less in savings in the budget year.

1. Twenty-Month Early Release

Governor's Proposal. The Governor is proposing releasing certain non-violent, non-serious, non-sex offenders up to 20 months early. Inmates with prior serious or violent crimes and strikes would not be eligible for early release. Inmates that had committed serious crimes in prison that were subject to administrative review, but not prosecuted would also be excluded. In addition, offenders that committed over 20 additional crimes categorized as non-violent non-serious would also be excluded. Those offenders eligible for early release would be placed on summary parole.

The Governor is requesting legislation to implement this policy change. If legislation had been enacted by March 1, 2008, it would have resulted in $4.3 million in savings in the current year. These savings would grow to $256.4 million in the budget year and $526.7 million in 2009-10. The department estimates that this policy change would ultimately reduce the average daily population in state prison by over 26,000 inmates.

The department estimates that there would be one-time costs of $600,000 to review inmate files to determine if they are eligible for early release. The department also estimates that $1.5 million is needed in the current year and $900,000 ongoing to augment the case records unit to process the increased numbers of inmates that will be eligible for parole. The Governor proposes legislation to allow the department to redirect internal resources to cover the costs needed to implement early release in the current year.

LAO Identifies Gap Created by Governor's Proposal. The LAO has identified a gap in the criminal justice system that would be created by the Governor's early release proposal. Specifically, local corrections will continue to supervise misdemeanants and many low-level offenders, while prisons will continue to house the most serious felons. However, under the Governor's proposal about 63,000 offenders would essentially go unsanctioned, serving little or no prison time. This is because many prison terms for non-violent offenses are less than 20 months, which would make some offenders immediately eligible for release under the

Governor's proposal. Consequently, under the Governor's proposal it is possible that certain offenders sentenced to prison would receive less punishment and supervision than those offenders sentenced to local county jails and probation.

The LAO also finds that this proposal would have the unintended consequence of reducing the incentive for some low-level offenders, at the time of their sentencing, to elect to participate in diversion programs such as Proposition 36, drug courts, and mental health courts. Currently, a major incentive for many felons to participate in these programs is that the alternative to participation is incarceration in state prison.

The LAO also identifies that the administration has not developed an implementation plan for addressing the many changes to operations that would occur if the early release proposal was adopted. For example, if this proposal was adopted, the state may not need the additional 16,000 infill beds approved as part of Chapter 7, Statutes of 2007 (AB 900, Solorio). The department may also need to make significant changes to the programming and contracts, since many programs are targeted to meet the needs of the population that would be impacted by the early release proposal.

The LAO also notes that the budget the Governor has submitted for CDCR is inconsistent with the population management proposals the Governor has also proposed. For example, the large population reduction resulting from this proposal would presumably result in a reduced need for correctional officer training, parole revocation caseloads, and other things. However, the Governor's budget does not reflect a reduction in these efforts and conversely actually aguments many of these areas as part of the Governor's budget.

Staff Comments. Staff finds that the Governor's early release proposal is a cumbersome and costly way of essentially changing the sentences for certain crimes. Staff finds that changes in sentencing could reach the same effect at a lower cost and would not create the gap in the criminal justice system identified by the LAO. The LAO has also made this conclusion and has suggested as an alternative to early release, changes in sentencing law to make some "wobblers"—crimes that can be sentenced as either felonies or misdemeanors—punishable as misdemeanors only. (This proposal is discussed at more length later in this agenda.)

2. Summary Parole

Governor's Proposal. The Governor is proposing that certain non-violent, non-serious, non-sex offenders not be supervised while on parole, but instead be placed on summary parole after serving their prison term. This proposal would eliminate the option of returning an individual to prison using the administrative process of parole revocation. However, individuals on summary parole would still be subject to search and seizure by any peace officer, as well as drug testing by any peace officer. Only inmates with no prior serious, violent, or strikeable offenses would be eligible for summary parole.

The Governor is requesting legislation to implement this policy change. If legislation was enacted by March 1, 2008, it would have resulted in $13.6 million in savings in the current year. These savings would grow to $97.9 million in the budget year and $231.5 million in 2009-10.

The department estimates that this policy change will ultimately reduce the average daily parole population by over 28,000 and the average daily population in state prison by over 8,600.

The department estimates that there would be one-time costs of $10 million in the current year to review case files of offenders to determine if they are eligible for summary parole. The department also estimates that $4.1 million would be needed in the current year, and ongoing, for additional case records positions to manage the summary parole population. The Governor proposes legislation to allow the department to redirect internally to cover the costs needed to implement the summary parole proposal in the current year.

LAO Finds Merit to Summary Parole. The LAO finds some merit to the Governor's summary parole policy. The LAO indicates that this practice is similar to the practice already in place in many other states where certain low-level offenders do not serve any time on parole after completing their prison term. However, the LAO does not recommend the Governor's proposal, but instead recommends adopting a system of earned discharge from parole. (This proposal is discussed at more length later in the agenda.) This system would permit parolees to be discharged from parole early if they had demonstrated that they had successfully reintegrated into the community.

Furthermore, in the past, the LAO has recommended direct discharge for some low-level parolees as a way to minimize risk to public safety. For example, in the LAO's *1990-91 Analysis,* the LAO indicated that certain low-level parolees could be direct discharged from state prison and these savings could be used to supervise high risk sex offenders more intensely.

Expert Panel Recommends Targeted Direct Discharge. In 2006-07 the Legislature funded an effort to convene an Expert Panel made up of corrections officials and academics from around the country. This Expert Panel delivered a report to the Legislature in the late summer of 2007. The Expert Panel recommended in its report that certain non-violent, non-serious, non sex-offenders that were also determined to be low-risk based on a validated risk assessment be direct discharged from prison. The Expert Panel recommended that CDCR establish a stabilization track for these offenders that would allow these offenders to receive voluntary services in relation to housing, job placement, and referrals to other needed social services. The Expert Panel found that this policy would have minimal impact on public safety.

Furthermore, the Expert Panel found that several studies show that imposing supervision conditions on those who are not likely to re-offend may actually increase their recidivism rates.

Staff Comments. Staff finds that California's current parole policies differ significantly from many other states in that we do not make unconditional releases from state prison. Actually, a majority of other states make considerably more unconditional releases. Furthermore, these states do not appear to have worse outcomes than California in terms of recidivism. For example, Ohio makes 20 times the unconditional releases California does and has a lower recidivism rate than California.

2008-09 LAO Criminal Justice Alternatives

Summary. The LAO in its 2008-09 Perspectives and Issues has offered an alternative budget for the Legislature's consideration. In contrast with the Governor's across-the-board reduction approach, the LAO recommends that the Legislature make more targeted reductions, eliminate or modify ineffective and nonessential programs, and consider adding ongoing revenue solutions. As part of the LAO alternative budget the LAO has suggested various proposals in the criminal justice area. The major components of the LAO's alternative budget for criminal justice are:

- **Parole Realignment.** The LAO recommends a major realignment of responsibility for supervision of low-level criminal offenders released from state prison.
- **Sentencing Changes.** The LAO recommends sentencing changes that would make certain "wobblers"—low-level drug and property crimes—punishable only by county jail or probation.
- **Other Savings.** The LAO accounts for various other savings related to slower growth in the inmate population and delays in implementing new programs, like Jessica's law, implemented in the current year.
- **Local Assistance Programs.** The LAO recommends reducing and eliminating various criminal justice local assistance programs that do not have demonstrated results or does not serve a statewide purpose.

In this agenda we will focus on the public policy changes proposed by the LAO. These are the first two bullets listed above. The other proposals will be discussed more thoroughly at a future hearing.

1. Parole Realignment

LAO Proposal Summary. The LAO has recommended, as part of its alternative budget package, the realignment of responsibility for the supervision of lower-level offenders released from state prison. This proposal would have the state allocate nearly $500 million to local law enforcement to cover the costs of this proposal.

As mentioned earlier in this report, the state is supervising on parole virtually all offenders released from prison, including over 70,000 offenders that have been convicted of property and drug offenses. Under the LAO's alternative, responsibility for supervising these lower-level offenders would be shifted from the state to the counties. The county would also be responsible for incarcerating these offenders if they commit violations of their probation conditions. Specifically, the LAO proposes shifting offenders whose current conviction is a property or drug offense. Figure 7 shows the offenses for which offenders would be transferred to probation supervision under the LAO's proposal.

Figure 7: Parolees Proposed for Realignment to Local Probation, June 30, 2007

Current Offense	Number of Parolees
Property Offenses	
Second degree burglary	7,482
Vehicle theft	7,128
Petty theft with a prior theft	6,159
Receiving stolen property	4,920
Forgery/fraud	4,104
Grand theft (over $400)	3,736
Other property offenses	1,146
Subtotal, Property Offenses	***34,675***
Drug Offenses	
Drug possession	19,046
Drug possession for sale	12,057
Marijuana possession for sale	1,280
Marijuana sales	538
Other marijuana crimes	179
Hashish possession	49
Subtotal, Drug Offenses	***33,149***
Driving under the influence	3,539
Total, All Offenses	**71,363**

The LAO proposal would significantly increase local probation caseloads and costs, but it would also provide significant additional resources for local probation and public safety programs. The LAO estimates that the proposal would result in a 25 percent increase in funding for local probation and a 20 percent increase in probation caseloads. Therefore, the LAO suggests that counties would receive significant new revenues with which to manage these offenders.

The LAO proposes funding this realignment from a reallocation of waste and water enterprise special district property taxes, city Proposition 172 sales taxes, and vehicle license fees retained by the Department of Motor Vehicles for administrative purposes.

Current System is Duplicative. The LAO finds that under the current system local probation and state parole fulfill very similar functions. Both systems supervise offenders in the community, monitor their compliance with state laws and other conditions, as well as provide programs and services designed to reduce recidivism. Furthermore, there is a lot of overlap in the type of offenders both state parole and local probation currently supervise. Generally judges have significant discretion on whether to send felons to state or local corrections and different offenders that commit the same crime may serve their sentence at either the state or local level.

Furthermore, most of the offenders on parole and probation have the same general needs, substance abuse treatment, employment, and treatment to address criminogenic behavior. Currently both state parole and local probation have separate programs that they use to try and address the needs of the offenders. This leads to duplication of effort and even competition for valuable community resources.

The LAO also finds that this duplicative system does not allow for economies of scale that could reduce the overall costs of supervision and providing services to these offenders.

Local Control Would Yield Better Outcomes. The LAO is recommending this realignment of parole because they find that local control would yield better outcomes for these offenders and public safety. This is not an issue of whether parole officers are less effective than their counterparts in probation. Instead, under realignment, the LAO finds that counties would have greater incentives than they have now to intervene and treat offenders because they would pay the costs of incarcerating offenders that commit violations of their probation conditions. Currently, parole struggles in jurisdictions across the state to site programs for parolees and to get parolees services in the community. Local governments control the permitting of facilities and access to some services for parolees. However, they do not have direct financial incentives to ensure these treatment facilities and services are established and accessed, because if the offender relapses, he or she can always be sent back to prison which is paid for by the state.

Furthermore, some county funding streams such as Proposition 63, which provides funding for county mental health programs excludes parolees from receiving services provided by these funds. Obviously, this makes it extremely difficult for parole agents to access mental health services for parolees in the community. On the other hand, probationers are not excluded from accessing these resources.

The LAO also finds that parole realignment would encourage more small-scale experimentation at the local level. Because local government is responsible for a number of different programs (substance abuse treatment, mental health, education, etc.), they would be more likely to try different models for intervention and treatment of offenders.

Furthermore, providing funding to the counties would enable them to more effectively develop a more robust continuum of services, including investments in prevention and intervention programs that might yield significant improvements to public safety in the longer term.

Reduces "Churning" in State Prison System. The state prison system is not designed to address the needs of offenders that have relatively short sentences to serve. When an offender enters state prison he is sent to a Reception Center. At the Reception Center the inmate goes through a classification process to determine what security level and where he or she should be housed in the state prison system. The offenders also get medial and mental health screenings, as well as reading level tests while at the Reception Center. These tests all take time and processing times at Reception Centers can be as long as a year, or more, especially when the prisons are overcrowded. It is not uncommon that an inmate will spend his or her entire sentence in the Reception Center. Since Reception Centers are set up just to process inmates and send them out to a "main-line" institution there are few programs or activities at the Reception Centers that would contribute to rehabilitation of the inmate. This is especially true for parole violators that are sent back to state prison for a relatively short period of time.

The LAO finds that the parole realignment will reduce the "churning" that currently happens due to the large volume of offenders sent to state prison for a relatively short-term. The state prison system is not well adapted to operate like a county jail.

Staff Comments. Staff has been informed by some local government entities that this proposal would reduce public safety because probation departments in some jurisdictions are not armed like parole officers. Staff finds that state law permits local jurisdictions to allow probation officers to be armed and this issue remains a local control issue under the LAO proposal. Furthermore, staff finds that whether or not probation officers are armed has little to do with reducing recidivism. Numerous studies have found that surveillance alone does not affect offender behavior and improve public safety.

2. Sentencing Changes

LAO Proposal. The LAO recommends that a better alternative to the Governor's early release proposal is to change sentencing law to make "wobblers"—crimes that can be sentenced as felonies or misdemeanors—punishable as misdemeanors only. The LAO finds that this is a better option for achieving significant budget savings while minimizing the impact to public safety.

The LAO has identified 10 "wobbler" crimes that could be converted to misdemeanors resulting in annual savings of approximately $690 million. The crimes identified by the LAO include the following:

Offense Category	Inmate Population	Average Time Served In Months	Annual Cost of Incarcerating Inmate Groups
Drug possession	7,742	17	$170
Vehicle theft	5,143	17	113
Petty theft with a prior theft	5,174	18	114
Receiving stolen property	4,077	15	90
Grand theft (over $400)	2,905	17	64
Forgery/fraud	2,888	17	64
Driving under the influence	2,375	17	52
Other property crimes	903	15	20
Other drug crimes	188	24	4
Hashish possession	33	12	1

The LAO notes that while their proposal targets offenders whose current offense is relatively low-level, some of these offenders would have committed more serious crimes in the past.

However, the LAO finds that less than one-quarter of the offenders that would be impacted by this proposal are third-strikers or have any prior violent offense. The LAO suggests that as an option for the Legislature to consider would be to exclude offenders with prior violent or sex offenses. This approach would reduce savings by $150 to $200 million annually upon full implementation.

Staff Comments. Staff recognizes that many local jurisdictions have acute overcrowding in existing jail facilities. Chapter 7, Statutes of 2007 (AB 900, Solorio) included $1.2 billion in state funding to support the construction of additional local jail beds. The LAO has recognized that its recommendation to make "wobbler" crimes punishable as misdemeanors would have impacts on local jail facilities. To mitigate these effects the LAO has proposed accelerating the second phase of funding included in AB 900 for local jail construction.

3. Earned Discharge from Parole

LAO Proposal. The LAO recommends that a better alternative to the Governor's summary parole proposal would be a system of earned discharge. As mentioned above, the LAO finds some merit in the Governor's summary parole proposal, but has identified earned discharge as a preferable alternative. The LAO indicates that a system of earned discharge would permit parolees to be discharged from parole early if they had demonstrated that they had successfully reintegrated in the community. The LAO recommends that the earned discharge requirements be set in statute, but does not make specific recommendations on what statutory criteria should be used. The LAO indicates that a risk assessment could also be used to determine each offender's discharge period.

The LAO indicates that budget savings related to a new earned discharge proposal could vary greatly, depending on the criteria set by the Legislature and or the implementation by the administration. However, the LAO estimates that if earned discharge were available for all parolees, except for those offenders with current or prior violent or sex offenses, the savings could exceed $100 million annually at full implementation. The LAO admits that the earned discharge policy even when applied to a broader segment of the parolee population would still result in savings of one-third or one-half of the amounts that could be generated under summary parole.

The LAO finds that the policy of earned discharge would provide more accountability for offenders and, consequently, improve public safety outcomes. The LAO further notes that the earned discharge policy is consistent with recommendations made by the Expert Panel in the report released in 2007.

Administration Has Authority to Implement Earned Discharge. Current law allows the department to implement a system of earned discharge from parole. Statute only sets three-years as the maximum parole term and the Board of Parole Hearings may determine that an offender be discharged from parole before the parole term expires.

Budget savings were adopted as part of the 2007 Budget Act to reflect the administration's implementation of a 12-month clean time discharge policy. Under this policy the administration is currently discharging certain offenders from parole if they have 12 months of continuous clean time while on parole. Furthermore, the department has developed plans to implement a system of earned discharge from parole on a pilot basis in the current year. However, the department reports that implementation of this pilot program has been delayed.

Expert Panel Also Recommends Earned Discharge. In 2006-07 the Legislature funded an effort to convene an Expert Panel made up of corrections officials and academics from around the country. This Expert Panel delivered a report to the Legislature in the late summer of 2007. The Expert Panel also recommended that California implement an earned discharge parole supervision strategy for all non-violent, non-serious, non-sex offenders. Specifically, the Expert Panel report recommended the following criteria for non-violent, non-serious, non-sex offenders:

- Low-risk to re-offend parolees could reduce six months off their periods of parole supervision if they actively engaged in community services, remained violation free, and completed all payments of victim restitution.
- Moderate-risk to re-offend parolees could be discharged from supervision if, at the end of 12 months, they have achieved stability in housing and employment, successfully completed all treatment requirements addressing their criminogenic needs, have maintained continuously violation-free parole, and have completed all payments of victim restitution.
- Higher-risk to re-offend parolees who are complying with their treatment requirements and who remain arrest-free for the first year could earn one month off their total parole supervision periods for each arrest-free month they have in the second year.

The Expert Panel recommended a system of earned discharge parole because it provides an incentive system that rewards desired behavior and encourages parolees to earn early discharges from parole. The Expert Panel finds that earned discharge is an evidence-based practice that reduces recidivism by motivating parolees to participate in their own supervision successes.

Other Options

1. Other LAO Options

Summary. Over the years, the LAO has developed other alternatives for reducing the prison population that in their analysis would have minimal impacts to public safety. This section summarizes several of these options.

Early Release for Non-violent Elderly Inmates. Under this option non-violent, non-serious inmates age 60 or older would be placed on parole early. Research shows elderly inmates are two or three times more expensive to incarcerate yet they have a high level of success on parole. In 2004-05 the LAO estimated that this option could save the state about $11 million annually. Alternatively, the LAO indicated that the Legislature could also choose to place elderly inmates on home detention, which would reduce the annual savings by about $2 million.

2. Other Expert Panel Recommendations

Summary. In 2006-07 the Legislature funded an effort to convene an Expert Panel made up of corrections officials and academics from around the country. This Expert Panel delivered a report to the Legislature in the late summer of 2007. This report included the following two recommendations related to population reduction:

- Reduce overcrowding in prison facilities and parole offices.
- Enact legislation to expand the state system of positive reinforcements for offenders who successfully complete their rehabilitation program requirements, comply with institutional rules in prison, and fulfill their parole obligations in the community.

The Expert Panel recommendation to develop a system of earned discharge from parole was discussed above, but this section includes additional information on the other recommendations made by the panel that relate to population reduction.

Earned Credits for Offenders that Complete Rehabilitation Programs. The CDCR currently provides *earned* credits to offenders: (a) who the CDCR assigns to conservation camps to fight fires and perform other prison jobs (Work Incentive Program) and (2) offenders who participate in the Bridging Educational Program. Offenders that complete other rehabilitation programs do not receive earned credits.

The Expert Panel recommended that California enact laws that would allow the CDCR to award earned credits to offenders who complete any rehabilitation program, such as substance abuse treatment or life skills development, in accordance with their behavior management plans. The Expert Panel finds that these credits would provide motivation for offenders to participate in and successfully complete assigned rehabilitation programs to earn reduced sentences. The Expert Panel notes that participation in evidence-based rehabilitation programs will reduce recidivism and result in improved public safety outcomes.

Replace Work Incentive Program Credits with Statutorily-Based Good Time Incentive Credits. California's Determinate Sentencing Law allows offenders to earn, with some exceptions, as much as a day-for-day "good time" rate (50 percent reduction), but only if they are able to receive Work Incentive Program credits. While most offenders are eligible to receive the day-for-day Work Incentive Program credits, because of program capacity limits, they cannot access the work programs. In most cases offenders are assigned to these work programs on a first-come first-served basis.

The Expert Panel recommended that California enact a law that would allow CDCR to grant good time credits to those offenders that comply with institutional rules in prison. These good time credits would provide motivation for prisoners to manage their behaviors in prison to earn reduced sentences.

Reduce Technical Parole Violations. The Expert Panel has also recommended that California enact legislation that restricts the use of incarceration in prison for technical parole violation to only those violations that are: (1) new felony convictions or (2) technical parole violations that are directly related to the offender's criminal behavior patterns, specific dynamic risk factors, and behaviors that threaten public safety. The Expert Panel recommends that all other parole violations result in intermediate, community-based sanctions other than prison.

Currently, technical parole violations are determined by (1) California state law, (2) the Board of Parole Hearings, and (3) CDCR's Parole Division. All three of these entities base their parole violation sanctions on the seriousness of the violation and not on the offenders risk to re-offend. The Expert Panel thinks that both the seriousness of the violation and the offenders risk to re-offend should be considered in the development and implementation of structured sanctions for technical parole violators. The Expert Panel recommends that the sanctions developed address the offenders' criminogenic needs to improve public safety outcomes.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Hearing Outcomes

(Senators in attendance were Machado and Kehoe, so 2-0 votes reflect the votes of those Senators)

Monday, March 24, 2008
10:00 a.m.
Room 3191

Consultants: Brian Annis

Department Budgets Proposed for Vote Only

(See consolidated vote-only recommendation and vote on page 7)

1110 & 1111 Select Regulatory Boards, Bureaus, Programs, Divisions within the Department of Consumer Affairs

Note: Boards and Bureaus with sunset issues are left off this agenda with the intent they will be heard at a subsequent hearing after related policy bills are enrolled. These are the Board of Barbering and Cosmetology, the Dental Board of California, the Speech-Language Pathology and Audiology Board, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, and the Bureau for Private Postsecondary Education.

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

		Positions		Expenditures	
		2007-08	**2008-09**	**2007-08**	**2008-09**
	<u>Boards and Commissions - Organization Code 1110</u>				
(1a)	**Accountancy, CA Board of**	84.5	84.5	$12,410	$12,729
(1b)	**Architects Board**	23.5	23.5	4,230	4,384
(1c)	**State Athletic Commission**	14.2	14.2	2,168	2,100
(1d)	**Geologists and Geophysicists, Board for**	9.6	9.6	1,311	1,369
(1e)	**Guide Dogs for the Blind, Board**	1.3	1.3	165	168
(1f)	**Medical Board**	259.4	247.0	52,699	51,983
(1g)	**Acupuncture Board**	8.5	8.5	2,653	2,537
(1h)	**Physical Therapy Board**	10.8	10.8	2,457	2,403
(1i)	**Podiatric Medicine, California Board of**	5.1	5.1	1,355	1,312
(1j)	**Psychology, Board of**	12.7	12.7	3,432	3,462
(1k)	**Respiratory Care Board of CA**	16.2	16.2	2,903	2,953
(1l)	**Occupational Therapy, CA Board**	6.5	6.5	1,046	1,087
(1m)	**Pharmacy, CA State Board of**	50.5	50.5	9,729	9,977
(1n)	**Registered Nursing, Board of**	93.9	93.9	24,092	24,219
(1o)	**Veterinary Medical Board**	10.0	10.0	2,266	2,494

	Bureaus, Programs, Divisions - Organization Code 1111				
(1p)	**Electronic & Appliance Repair, Bureau of**	14.5	14.5	$2,343	$2,423
(1q)	**Telephone Medical Advice Services Program**	0.9	0.9	161	150
(1r)	**Cemetery & Funeral Bureau**	22.5	22.5	4,061	4,187
(1s)	**Hearing Aid Dispensers Bureau**	3.8	3.8	776	770
(1t)	**Naturopathic Medicine, Bureau**	0.9	0.9	154	128
(1u)	**Professional Fiduciaries Bureau**	3.8	3.8	649	609

Staff Recommendations: Approve these budgets.

(2) **Boards/Bureaus with Budget Change Proposals (BCPs):** The Administration submitted BCPs for the following Boards and Bureaus that make minor adjustments to funding and staff primarily in response to workload and cost changes. None of the entities listed below receive General Fund support. No concerns have been raised to Staff concerning budget changes for these entities. A brief description of the Budget Change Proposal is included under each Board or Bureau. Note, most of these augmentations support core workload functions and delays in licensing or consumer-protection investigations could result if the requests are denied.

		Positions		**Expenditures**	
		2007-08	**2008-09**	**2007-08**	**2008-09**
	Boards and Commissions - Organization Code 1110				
	Behavioral Sciences, Board of	32.2	35.5	$5,821	$6,373
(2a)		Augmentation of $60,000 and redirection of $33,000 from temporary help to add 1.0 Office Technician and 0.5 Office Assistant for workload increases. (BCP 1110-03)			
(2b)		Augmentation of $208,000 to add 2.0 Associate Government Program Analysts for enforcement workload. (BCP 1110-01)			
(2c)		Augmentation of $200,000 (two-year limited term) to hire consultants to perform examination development and provide policy expertise to fulfill the requirements of the Mental Health Services Act (MHSA) Proposition 63. (BCP 1110-04).			

		Positions		Expenditures	
		2007-08	2008-09	2007-08	2008-09
	Physician Assistant Committee	4.4	4.9	1,184	1,211
(2d)		Augmentation of $35,000 and 0.5 positions (two-year limited term) to address new licensing requirements implemented by AB 3 (Ch 376, St of 2007, Bass) for physician assistants. (BCP 1110-03L)			
	Optometry, State Board of	6.8	7.7	1,205	1,500
(2e)		Augmentation of $157,000 (one time) to contract with the Department of Consumer Affairs for Occupational analysis, exam validation, and audit of the national exam. (BCP 1110-18)			
(2f)		Augmentation of $85,000 and 1.0 Staff Services Analyst for customer service workload. (BCP 1110-17)			
	Osteopathic Medical Board	4.5	6.9	1,276	1,408
(2g)		Augmentation of $91,000 and redirection of $49,000 to add 2.5 positions to address workload growth. (BCP 1110-19)			
	Professional Engineers and Land Surveyors, Board for	53.0	53.5	$9,179	$9,436
(2h)		Redirection of operating expense funding of $24,000 to add 0.5 position to address enforcement and exam workload. (BCP 1110-20)			
	Court Reporters Board of California	4.5	4.5	1,171	1,242
(2i)		Augmentation of $45,000 (one time) to cover the lump sum retirement of the Executive Officer and avoid the necessary to hold the position vacant for an extended period. (BCP 1110-24)			
(2j)		Augmentation of $55,000 (limited-term) to contract with the Department of Consumer Affairs for three exam validation studies. (BCP 1110-23)			
	Structural Pest Control Board	28.3	29.2	5,003	4,930
(2k)		Redirection of $91,000 in operating expenses to add 1.0 position to address enforcement workload. (BCP 1110-25)			
	<u>Bureaus, Programs, Divisions - Organization Code 1111</u>				
	Arbitration Certification Program	5.7	7.6	$1,033	$1,126
(2l)		Augmentation of $88,000 and 2.0 positions to			

		Positions		Expenditures	
		2007-08	2008-09	2007-08	2008-09
		improve the State's administration of vehicle "lemon laws." (BCP 1111-08)			
	Security and Investigative Services, Bureau of	65.9	51.7	$11,059	$11,843
(2m)		Reduction of $791,000 and 15.0 positions due to lower-than-anticipated workload from SB 194 (Ch 655, St of 2005, Maldonado), which added proprietary private security to the oversight of the Bureau. Applications have been only 7 percent of the expected level. (BCP 1111-12)			
	Home Furnishings & Thermal Insulation, Bureau of	30.4	30.4	$4,660	$4,797
(2n)		Augmentation of $120,000 for moving costs and a facility lease increase. (BCP 1111-04)			
	Automotive Repair, Bureau	598.5	606.6	169,226	183,955
(2o)		Augmentation of $399,000 and 4.5 positions to implement AB 1488 (Ch 739, St. of 2007, Mendoza), which expanded the types of vehicles subject to the Smog Check Program. (BCP 1111-01L)			
		Augmentation of $600,000 for moving costs and a facility lease increase. (BCP 1111-09)			
	Centralized Department of Consumer Affairs Administration	584.9	605.6	68,263	71,249
(2p)		Augmentation of $1.2 million and 5.0 positions to continue the implementation of the iLicensing information technology project that the Legislature approved in 2006-07. (BCP 1111-02)			
(2q)		Augmentation of $309,000 and 7.0 positions to address workload growth in cashiering so that applications and renewal of licensees is not delayed. (BCP 1111-03)			
(2r)		Augmentation of $224,000 and 2.0 positions to address internet workload so that consumers and licenses have access to timely updates on applications, exams, and consumer resources. (BCP 1111-06)			
(2s)		Redirection of operating expenses to add 2.0 positions in the Office of Information Services to support the needs of contracting boards and bureaus. (BCP 1111-10)			

		Positions		Expenditures	
		2007-08	2008-09	2007-08	2008-09
(2t)		Augmentation of $382,000 and 4.5 positions to address the workload needs contracted by boards and bureaus in the areas of budgeting, personnel, and business services. (BCP 1111-05)			

Staff Recommendations: Approve these budgets.

(3) 0510 Secretary for State and Consumer Services

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

The Governor proposes expenditures of $3.4 million ($2.8 million General Fund) and 22.7 positions for the Agency – an increase of $1.1 million and 6.9 positions. The change is primarily due to two factors: (1) last year the Legislature approved a statewide information technology restructuring plan that resulted in two existing entities being merged and added to the Agency – the Office of Privacy Protection (at the Department of Consumer Affairs) and the Information Security Office (at the Department of Finance). The new Office is called the Office of Information Security and Privacy Protection (OISPP) and was effective January 1, 2008. $1.2 million is added to the 2008-09 budget for the full year implementation. (2) The Governor proposes a cut of $306,000 to the overall Agency budget to help balance the General Fund. The Administration did not submit any Budget Change Proposals for the Agency.

The Agency indicates the proposed reduction would be split with $92,000 cut from the base Agency, and $214,000 cut from the OISPP, which is proportional relative to the base budget of each, and that this reduction would come out of operating expenses instead of personnel services. Staff has asked the Administration to sub-schedule the OISPP in next year's Governor's Budget to provide additional fiscal detail, and the Administration indicates it has no objections.

Staff Recommendations: Approve the budget, including the budget reduction.

(4) 2120 Alcoholic Beverage Control Appeals Board

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

The Governor proposes total expenditures of $1.1 million (no General Fund) and 8.8 positions for the ABC Appeals Board – an increase of $17,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the ABC Appeals Board. No reductions are proposed for the Board, because it does not receive any General Fund support, nor is any of the Board's special fund revenue fungible to the General Fund.

Staff Recommendations: Approve the budget.

(5) 2700 Office of Traffic Safety

The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to State and local entities to promote traffic safety.

The Governor proposes total expenditures of $96.3 million (no General Fund) and 34.0 positions – a decrease of $99,000 and no change in positions from the current year. The Administration did not submit any Budget Change Proposals for OTS.

Staff Recommendations: Approve the budget.

(6) 8260 California Arts Council

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

The Governor proposes expenditures of $5.6 million ($1.1 million General Fund) and 19.3 positions for the Arts Council – an increase of $245,000. This change is primarily due to two factors: (1) the Administration submitted one Budget Change Proposal – an ongoing $335,000 increase from the Graphic Design License Plate Account to increase grants to local art agencies; and (2) an ongoing budget cut of $125,000 to help close the State's General Fund deficit. The cut would result in a statutory position being held vacant, operating expense reductions, and a reduction in General Fund grants for local art projects.

Staff Recommendations: Approve the budget, including the budget reduction.

(7) Control Section 14.00 Department of Consumer Affairs Loans

Control Section 14.00 authorizes short-term loans (not to exceed 18 months) between special funds within the Department of Consumer Affairs. No loan can be made that would interfere with the carrying out of the object for which the special fund was created.

Staff Recommendations: Approve the Control Section.

Consolidated Staff Recommendation on Vote-Only Calendar: Approved the proposed budgets for all the entities listed above, including proposed budget reductions.

Action: All issues on the Vote-Only calendar were approved on a 2 – 0 vote.

Department Budgets Proposed for Discussion

1100 California Science Center

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

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

Proposed Vote-only / Consent Issues

1. **Science Center Budget Reduction.** The Science Center received approval of a multi-year BCP last year that grew the 2007-08 budget by $1.9 million (and 4.5 positions) and grew the 2008-09 budget by an additional $2.6 million (and 11.4 positions) related to start-up costs for the Phase II facility that will open to the public in late 2009. The 2008-09 increase is partially offset by the proposed budget reduction of $1.5 million. The Science Center indicates they would still proceed with the planned opening of the Phase II facility, but would reduce the number of custodians for the overall facility by 8 and reduce 3 administrative positions. However, with the workload staffing increase, the net change in staffing is zero.

2. **California African American Museum (CAAM) Reduction.** The CAAM received approval of a multi-year BCP last year that augmented its budget by $399,000 for "critical operating, technology and baseline education collection, program and exhibition costs." That increase, which CAAM indicates was their first increase in six years, would be partially offset by the proposed 2008-09 reduction of $249,000. According to CAAM, that reduction would result in: fewer public exhibitions and programs; delays in the upgrading and maintenance of administrative equipment and systems the website and virtual reality access for the public; and possible reduction in operating personnel support.

Staff Recommendation: Approve the requested budget reductions.

Action: Approved the vote-only issues on a 2 – 0 vote, also approved action to conform to the Assembly by moving budget bill language to trailer bill language.

Discussion / Vote Issues

3. **CAAM Facility Renovation and Expansion Project – Working Drawings (BCP).** The Administration requests an augmentation of $2.1 million in 2008-09 to complete working drawings for the renovating and expansion of the California African American Museum (CAAM) facility. The Administration requested and the Legislature approved $2.3 million for preliminary plans in 2007-08. The total General Fund cost inclusive of construction is estimated at $43.6 million, which is 67 percent of the total project cost of $65.4 million – the CAAM Friends Foundation would contribute the remaining $21.8 million (33 percent).

   Staff Comment: When construction phase costs are considered, this project will have total General Fund costs of $41.1 million over the 2008-09 to 2009-10 period. In November 2007, the Department of General Services (DGS) halted development of a new office building in Sacramento for the Resources Agency. The DGS press release said, "*DGS determined that it is not in the best interests of the state and the parties concerned to continue with a project of this magnitude during this period of financial uncertainty when funds have not yet been allocated*." The CAAM project differs in that funds have been allocated in 2007-08 for preliminary plans and the project will be supported with 33 percent private-sector funding. However, the Subcommittee may want to hear from the Administration on the advisability of proceeding with this $43.6 million General Fund project at the current time.

   Staff Recommendation: Keep this issue open.

Action: Held issue open. CAAM will provide additional detail on its fundraising plan.

1110 Contractors' State License Board

The Contractors' State License Board (Board) licenses contractors and enforces licensing laws; provides resolution to disputes that arise from construction activities; and educates consumers so that they make informed choices. The Board licenses or certifies contractors in 44 classifications (e.g. plumbing, electrical, general building, etc.) and registers home improvement salespersons.

The Governor proposes expenditures of $60.7 million (no General Fund) and 413.1 positions for the Board – an increase of $2.9 million and 6.5 positions. The Governor's Budget reflects a healthy balance in the Contractors' State License Fund – with a balance projected at $25.6 million at the end of 2008-09.

Proposed Vote-only / Consent Issues

1. **Continue 11 limited-term Enforcement Staff (BCP #1110-06).** The Administration requests $919,000 (special fund) to continue, for two years, 11.0 limited-term enforcement positions.

   Background / Detail: The Legislature approved 11.0 limited-term positions in 2005-06 as part of the Economic and Employment Enforcement Coalition (EEEC) which is a cooperative effort that also includes the Department of Industrial Relations, the Employment Development Department, and the federal Department of Labor. The Board cites an increase in complaints investigated of about 1,500 annually and an increase in complaints forwarded for prosecution of about 225 annually. The Administration indicates it will improve its existing offender tracking and develop better estimates of secondary General Fund impacts (from improved employer compliance with tax withholding, etc.) and should be able to provide a more complete picture of results in two years time.

2. **Add 7 permanent Enforcement Staff (BCP #1110-07).** The Administration requests $758,000 (special fund) and 7.0 new positions to open a third enforcement office in the State – this one in Fresno.

   Background / Detail: Administration indicates that there are currently two Statewide Investigative Fraud Teams (SWIFT) units – one in Sacramento serving northern California and one in Norwalk serving Southern California. This proposal would add a third office in Fresno to improve enforcement in the Central Valley. This proposal would increase enforcement statewide, as employees currently traveling to the Central Valley for enforcement would be redirected to other areas in California.

Staff Recommendation: Approve these budget requests.

Action: Approved the vote-only issues on a 2 – 0 vote.

Discussion / Vote Issues

3. **Outreach and Advertising (BCP 1111-01).** The Administration requests $1.3 million annually for three years to establish a pilot program to conduct a public awareness media campaign. The program would educate consumers on the risks of conducting business with unlicensed practitioners and service providers and educate unlicensed practitioners on the requirements and benefits of licensure. The Contractors' State License Board would actually only fund $670,000 annually, with the remainder shared by other Boards and Bureaus (for example, the Board of Pharmacy's Budget includes an augmentation of $27,000 to fund its share of this proposal).

   Staff Comment: Through a February 27, 2008 Section 28.5 letter, the Administration requested increased expenditure authority of $1.0 million (special funds) for 2007-08 to implement an outreach and advertising campaign to inform consumers about their rights and options related to home mortgage foreclosure. The Joint Legislative Budget Committee (JLBC) approved the request. Given that this BCP requests is a second advertising campaign on top of the mortgage foreclosure campaign, and given the overall budget situation, the Subcommittee may want to consider the rejection of this BCP. If this BCP is rejected, the Administration could resubmit it next year and present the results of the home-mortgage effort as a measure of the Department of Consumer Affair's success with outreach and advertising campaigns.

   As an additional consideration, the general direction from the Full Budget Committee is to defer or eliminate new programs and initiatives.

   Since the Section 28.5 letter for home mortgage outreach has not been discussed at a public hearing, the Subcommittee may want to hear from the Department of Consumer Affairs on that effort.

   Staff Recommendation: Reject this BCP. Note, rejection of this request would reduce the budget, not only of the Contractors' State License Board, but of all Boards and Bureaus that had been included in this proposal.

Action: Rejected request on a 2 – 0 vote.

8780 Milton Marks "Little Hoover" Commission

The Little Hoover Commission on California State Government Organization and Economy conducts four to five comprehensive reviews of executive branch programs, departments, and agencies each year and recommends ways to improve performance by increasing efficiency and effectiveness. The Commission, which was established in 1962, analyzes and makes recommendations to the Legislature on government reorganization plans.

The Governor proposes expenditures of $941,000 (primarily General Fund) and 8.8 positions for the Commission, a decrease of $98,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the Commission. Included in the budget, is a reduction of $104,000 to help close the State's General Fund deficit and that would result in a positions being held vacant for five months, and operating expense cuts in travel, printing and other areas.

Discussion / Vote Issues

1. **Role of the Commission (Staff Issue).** Given the range of dramatic budget cuts under discussion across budget areas, the Subcommittee may want hear from "study / advocacy" entities on their size and structure. The Commission should be prepared to discuss the value of their output relative to other entities that provide direct and measurable services and benefits to the public. Additionally, the Commission should be prepared to discuss the reduction in effectiveness that would occur if the Commission were consolidated with another budget entity (if for example, the Commission were shifted into the California Research Bureau (or other existing entity), with all staff positions except the Executive Director being eliminated).

   Staff Comment: The Subcommittee may want to briefly hear from the Commission on their role in State government and discuss opportunities for budget savings.

   Staff Recommendation: Hold the budget open.

Action: Held budget open.

8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating its constituencies. The Commission was originally established as an advisory body in 1965.

The Governor's Budget proposes expenditures of $531,000 ($529,000 General Fund and $2,000 reimbursements) and 4.6 positions – a decrease of $11,000 and no change in positions. The Administration submitted one Budget Change Proposal to add $43,000 and 0.6 positions, but a proposed budget reduction of $59,000 would result in the 0.6 position not being added plus an additional operating expense reduction of $16,000 that would reduce travel and printing.

Discussion / Vote Issues

1. **Role of the Commission (Staff Issue).** Given the range of dramatic budget cuts under discussion across budget areas, the Subcommittee may want hear from "study / advocacy" entities on their size and structure. The Commission should be prepared to discuss the value of their output relative to other entities that provide direct and measurable services and benefits to the public. Additionally, the Commission should be prepared to discuss the reduction in effectiveness that would occur if the Commission were consolidated with another budget entity (if for example, the Commission were shifted into the Office of Planning and Research (or other existing entity), with all staff positions except the Executive Director being eliminated).

   Staff Comment: The Subcommittee may want to briefly hear from the Commission on their role in State government and discuss opportunities for budget savings.

   Staff Recommendation: Hold the budget open.

   Action: Held budget open.

2100 Department of Alcoholic Beverage Control

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

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

Issues proposed for Discussion / Vote:

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

   Background / Detail: The Department indicates that revenue grows about 2-percent each year from growth in the licensee population; however, the Department's costs have increased at a faster rate, and again, fees have not increased since January 2004. As cost drivers, the Department cites: unanticipated increases in personal services associated with the Bargaining Unit 7 contract; routine increased general operating expense; and increased funding for local grants in 2006-07 and ongoing (grants increased from $1.5 million to $3.0 million annually). Staffing has been relatively unchanged (plus 3.0 positions) over this period.

   Staff Comment. The budget reflects that the Department had budget savings of $1.8 million in 2006-07. Additionally the actual rate of vacancies is about 20 percent versus the 3 percent budgeted. However, some of the vacancy savings is redirected to additional overtime and temporary help. The Department should be prepared to discuss vacancy savings and the ability absorb the IT cost (see BCP below) and/or to score additional salary savings in 2008-09.

Staff Recommendation:
(1) Approve the CPI fee increase.
(2) Cut the ABC personnel-services budget by $1.231 million on a one-time basis to incorporate a vacancy savings rate that better ties to current vacancies.
(3) Restore local grants to $3 million (a $1.0 million increase relative to the proposed budget) to maintain local law enforcement for programs that reduce underage drinking and increase the enforcement of liquor laws. On net this would reduce the ABC expenditures by $231,000 relative the Governor's Budget.

Action: Issue held open. The Department will provide the Subcommittee a corrected Fund Condition Statement and information on the redirection of vacant position savings.

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

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

Staff Recommendation: Approve this BCP. Note, if the staff recommendation for issue number 1 is approved, this IT BCP would be essentially funded with redirected vacancy savings. On net, the ABC expenditures would be reduced by $231,000 relative the Governor's Budget.

Action: Issue held open. The Department will provide the Subcommittee a corrected Fund Condition Statement and information on the redirection of vacant position savings.

2150 Department of Financial Institutions

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

The Governor proposes total expenditures of $32.5 million (no General Fund) and 241.2 positions - an increase of $3.5 million and 18.0 positions.

Issues proposed for Discussion / Vote:

1. **Office Relocation and Lease Costs (BCP #1).** The Governor proposes a budget augmentation of $1.1 million in 2008-09 and $394,000 ongoing, to fund the relocation of the San Francisco office and higher lease costs. The Department is at the end of a fifteen year lease and must move. Statute requires DFI to be headquartered in San Francisco, but the Department is partially mitigating the high cost of real estate in San Francisco by shifting 10 staff to Sacramento, and reducing office space in San Francisco from 22,000 square feet to 18,000 square feet.

   Staff Comment: The Department should discuss the benefit of retaining their headquarters in San Francisco versus moving to a lower-cost Bay Area location.

   Staff Recommendation: Approve this budget request.

Action: Approved the request on a 2 – 0 vote.

2. **Banking Program: SB 385 Implementation (BCP #1).** The Department requests an augmentation of $128,000 (special fund) and one position to implement SB 385 (Ch. 301, St. of 2007) that requires financial institutions to comply with the federal guidance on nontraditional and subprime mortgage products. DFI indicates it will take approximately 16 hours to examine each licensee for compliance to the guidance, or 1,744 hours annually for the examination of banks.

   Background / Detail: The Senate Floor analysis for SB 385 estimated DFI would need $240,000 and 2.0 positions to implement the legislation. The Department indicates that they have requested 6.0 positions in the Credit Union Program for Subprime lending examiners that would allow DFI to address baseline workload issues as well as new SB 385 workload.

   Staff Recommendation: Approve this budget request.

Action: Approved the request on a 2 – 0 vote.

3. **Credit Union Program: Staffing Augmentation (BCPs #2, 4, & 5).** The Governor proposes a significant increase to the Credit Union Program with three BCPs that total $2.2 million and 18.0 positions (relative to the base level of $4.8 million and 36.3 positions). New staff resources would be allocated to improve examinations when reviewing: subprime lending (6.0 positions); electronic financial services (10.0 positions), and business loans (2.0 positions).

   Background / Detail: Some Credit Unions are struggling with loan problems stemming from the housing market. This increases DFI workload as it must spend additional time reviewing loan transactions to determine if intervention is warranted. The other positions are driven by increased use of electronic banking that adds to DFI workload to examine data integrity and consumer privacy, and by the significant increase in the number and amount of member business loans that raises concerns about the ability of institutions to weed out problem loans and potential fraud. Included in the 18.0 positions is one Associate Information Systems Analyst to support information technology requirements.

   Staff Comment: Statute sets a ceiling on Credit Union assessments at $2.20 per $1,000 of assets. DFI reports that the assessed rates in the past five years have been between $0.747 and $0.447. The staffing augmentation will likely affect assessed rates at some point, but assessments should stay well below the statutory cap.

   Staff Recommendation: Approve this budget request.

Action: Approved the request on a 2 – 0 vote.

2180 Department of Corporations

The Department of Corporations (Corporations) administers and enforces State laws regulating securities, franchise investment, lenders, and certain fiduciaries. The budget is divided into two operating programs. The Investment Program is responsible for the qualification of the offer and sale of securities in California and the licensing and regulation of broker-dealers and investment advisers. The Lender-Fiduciary Program licenses and regulates California finance lenders, mortgage lenders, escrow agents, deferred deposit transaction entities (including “payday” lenders), and check sellers.

The Governor proposes total expenditures of $40.1 million (no General Fund) and 313.1 positions, an increase of $1.6 and 7.2 positions. The State Corporations Fund has an outstanding loan of $18.5 million to the General Fund from the 2002-03 budget.

Last year over several hearings, the Subcommittee discussed the Department’s staffing and performance. The Administration responded to some of the issues raised by both the State Auditor and the Subcommittee by requesting 25.0 new positions via a spring Finance Letter. The Legislature added an additional 5.0 positions to fully address workload needs in the payday lending area. Bi-annual reporting requirements were added with last year’s budget. Data from two reporting periods indicate good progress in staffing – only 1 of 50 enforcement positions was vacant on January 1, 2008. Other performance metrics are included in the data, and over time, this will assist the Legislature in assessing the enforcement activity and staffing needs of the Department.

Issues for Discussion / Vote

1. **Lender-Fiduciary Program: Staffing Augmentation (BCP #2**). The Administration requests a two-year limited term augmentation of $500,000 (special fund) and 4.0 positions to address the sub-prime mortgage crisis. These positions will allow for stronger oversight through timely, routine examinations of lenders.

   Background / Detail: Statute does not specify a minimum examination cycle, but the Department has established a minimum exam cycle of every four years. In 2000-01 through 2006-07, the number of licensees in the Program increased by 116.5 percent. Exams can find violations such as overcharging customers and failure to provide adequate loan disclosures. The Department’s analysis suggests that 13.0 new positions would be needed to achieve the four year exam cycle, so this proposal only mitigates and doesn’t solve the staffing shortfall.

   Staff Comment: This BCP request further addresses concerns raised last year on the frequency of exams and the adequacy of staffing given the large growth in licensees. However, past analysis suggested these were ongoing issues that may take several years to fully address. The Administration should explain why the positions are limited term given that their analysis suggests an ongoing workload need of 13 new positions.

Staff Recommendation: Approve this request, but make the positions permanent instead of limited term.

Action: Approved the requested funding and positions on a 2 – 0 vote, but changed the positions from limited-term to permanent.

2. Investment Program: Staffing Augmentation (BCP #1). The Administration requests a two-year limited term augmentation of $500,000 (special fund) and 4.0 positions to address the sub-prime mortgage crisis. These positions will allow for stronger oversight through timely, routine examinations of broker dealers and investment advisors that sell collateralized mortgage obligations to the investing public.

Background / Detail: California has 261 licensed firms that sell collateralized mortgage obligations. In 2004-05 through 2006-07, the number of licensees in the Program increased by 46.5 percent. Exams can find fraudulent or unethical licensee, and increase protections for those who may buy collateralized mortgage obligations. The Department's analysis suggests that 48.0 new positions would be needed to achieve the four year exam cycle, so this proposal only mitigates and doesn't solve the staffing shortfall.

Staff Comment: This BCP request further address concerns raised last year on the frequency of exams and the adequacy of staffing given the large growth in licensees. However, past analysis suggested these were ongoing issues that may take several years to fully address. The Administration should explain why the positions are limited term given that their analysis suggests an ongoing workload need of 48 new positions.

Staff Recommendation: Approve this request, but make the positions permanent instead of limited term.

Action: Approved the requested funding and positions on a 2 – 0 vote, but changed the positions from limited-term to permanent.

2400 Department of Managed Health Care

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

The Governor proposes $44.3 million (no General Fund) in total expenditures and 297.3 positions for the department – an increase of $121,000 and no net change in positions.

Issue for Vote Only:

1. **Health Plan Oversight Staff Increase (BCP #1).** The Department requests to continue 2.0 limited-term positions for another two years at a cost of $196,000 to address workload related to the review of required health plan filing submissions.

   Background / Detail: The Office of Health Plan Oversight reviews new license applications and regulatory filings. In 2006-07 the Legislature approved 9.0 permanent and 2.0 limited term positions to improve processing times for licenses and material modifications of existing plans. As a result of this staffing increase, review times have decreased. For example, material modifications of existing plans dropped from 116 days in 2003 to 67 days in 2007. The department feels review times will lengthen if these positions are not extended.

   Staff Recommendation: Approve the request.

Action: Approved the request on a 2 – 0 vote.

Issue for Discussion

2. **Update on Regulations and Budget Impacts (Staff Issue).** The Department is involved in the rulemaking process for several significant regulations. On March 5, 2008, the Office of Administrative Law rejected on procedural grounds, DMHC regulations related to timely access to health care services. The DMHC has also submitted new draft regulations related to unfair billing patterns (balanced billing) – these are actually more narrow regulations that the draft regulations under discussion over the past year that also addressed reasonable and customary payment and other issues.

   Staff Comment: Both of these draft regulations project they would not have a fiscal impact on the Department, although it would seem they could affect the volume of certain complaints and dispute resolution requests. The Subcommittee may want to briefly hear from the DMHC on recent developments in the area of rulemaking and what impact these efforts might have on the Department's workload.

   Staff Recommendation: Informational item – no action needed.

Action: No action – informational only.

Crosscutting Issue: Department of Motor Vehicles/ California Highway Patrol

The Department of Motor Vehicles (DMV) and the California Highway Patrol (CHP) are both primarily funded with revenue received in the Motor Vehicle Account (MVA). Due to a large operating deficit in the MVA, the Administration has proposed a $11 increase in the annual vehicle registration fee. The DMV is available to discuss topics related to the vehicle registration fee, and the DMV and CHP are both available to discuss their respective department's expenditures out of the MVA and why a fee increase is deemed necessary.

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

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

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

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

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

Staff Comment: The Subcommittee should hear from the Administration on why this fee increase is proposed. Note, the LAO's Alternative Budget includes a proposal to shift $130 million in Vehicle License Fee revenues from DMV to counties as part of a parole realignment option. If that alternative was adopted, it could result in the need to increase car registration fees by an additional $4 per vehicle. However, that issue can be separately discussed in the context of corrections and rehabilitation.

Staff Recommendation: Approve this request.

Action: Held open for further analysis.

2740 Department of Motor Vehicles

The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

The Governor proposes total expenditures of $958.3 million (no General Fund) and 8,249.2 positions, an increase of $18.7 million and a decrease of 39.4 positions.

Issue for Vote Only:

1. **Relocation to Leased Facilities - Various (BCP #1).** The Administration requests $4.1 million (special funds) for a combination of one-time and ongoing costs related to moving into three new leased facilities. In 2009-10, there are additional one-time costs of $1.1 million to complete the move, and in 2010-11 and thereafter ongoing costs related to these moves would be $1.7 million. DMV indicates the moves are required to resolve critical service capacity deficiencies. Included in the 2008-09 funding is $350,000 one-time to pay the Department of General Services for lease planning for additional moves that would be requested in future budgets.

   Background / Detail: The three relocation projects are as follows:

   - **Lompoc Field Office:** Establish a replacement facility for the existing Lompoc Field Office at a cost of $1.6 million over three years.
   - **Central California Consolidated Telephone Service Facility:** Establish a consolidated facility to replace existing locations in Campbell, Fresno, and Oakland at a cost of $5.7 million over three years.
   - **Bakersfield Drivers Safety Office:** Establish a new stand-alone facility in Bakersfield to move the Safety Function out of an existing Bakersfield location.

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

2. **Relocation to Leased Facilities – Commercial Driver License Center (BCP #2).** The Administration requests $517,000 (special funds) in 2008-09 and $450,000 in 2009-10 and ongoing related to moving into a new leased facility in the Central Valley that will consolidate Commercial Driver License (CDL) functions in that region. DMV indicates that this will reduce the number of commercial vehicles using regular DMV field offices, which are not built or equipped to manage larger trucks.

   Staff Comment: The BCP indicates that this is the first CDL consolidation of a total of five planned statewide. The other four consolidations would be requested in future BCPs. The overall goal is to eliminate CDL traffic at certain field offices, although a reduced level of CDL traffic at field offices would continue where no consolidated CDL facility was nearby.

3. **Construction or Renovation of State-owned Facilities (BCP #2).** The Administration requests $1.4 million (special funds) in 2008-09 for three capital outlay projects for state-owned facilities and an additional $100,000 for Department of General Services planning for future projects. When future construction costs are added, the total costs for these three projects in 2008-09 through completion is $18.5 million.

   Background / Detail: The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The three projects and phases are as follows:

   - **Oakland Field Office Reconfiguration (Preliminary Plans):** $145,000 is requested for 2008-09. An additional $2.2 million will be requested in the out-years to fund working drawings and construction. This project ties to the BCP in issue #1 to move consolidate the Oakland telephone service center into a new Central Valley facility. With the space opened up in the existing Oakland facility, the DMV would then reconfigure the second floor of the existing Oakland field office to house a DMV Business Service Center.
   - **Fresno DMV Field Office Replacement Project (Preliminary Plans)** – $912,000 is requested for 2008-09. An additional $12.9 million will be requested in the out-years to fund working drawings and construction. This project will replace the existing facility at 655 West Olive Avenue that is 46 years old and is deficient in size and does not comply with current safety and accessibility codes.
   - **Stockton Field Office Reconfiguration (Working Drawings):** $310,000 is requested for 2008-09. The Legislature approved $309,000 for preliminary plans for this project in 2006-07. Construction costs are estimated at $2.9 million. Separately, a new Stockton field office is being constructed, and this BCP converts the existing facility (at 710 North American Street) into a stand-alone driver-safety office.

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

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

Action: Approved all vote-only issues on a 2 – 0 vote.

Issues Proposed for Discussion / Vote:

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

   Staff Comment: The final Legislative bill analysis for AB 462 had estimated programming costs of $88,000 and ongoing administrative costs of $50,000. However, the DMV has only requested the one-time costs with this BCP – indicating that there are no ongoing implementation costs. Since AB 462 adds additional vehicle model-years to the program (1963 – 1969), additional revenue from new applications is anticipated to fully cover the cost of implementation. There are currently about 150,000 vehicles in the program and if 2,200 new applications are received implementation costs would be fully covered in the first year.

   Staff Recommendation: Approve this request.

Action: Held open pending additional information from the DMV.

5. **AB 808 Implementation (BCP #5b).** The Administration requests $30,000 (special funds) in on-going funding and 0.6 position to implement AB 808 (Ch 748, St. of 2007, Parra). Assembly Bill 808 requires applicants for driver license to sign a declaration that would acknowledge being advised that they could be charged with murder if the death of another person results from their driving while under the influence of drugs or alcohol. The requested augmentation would fund 0.6 positions of workload spread over all DMV offices to address the customer questions related to the new requirement.

   Staff Comment: The final Legislative bill analysis for AB 808 had estimated no costs to DMV related to the implementation of this bill.

   As an additional consideration, the general direction from the Full Budget Committee is to defer or eliminate new programs and initiatives. Unlike AB 462, this bill does not include new revenue to fund the cost of the new program. If the BCP is rejected, the Administration would not be prohibited from funding this new activity with redirected budget resources.

   Staff Recommendation: Reject this request.

Action: Rejected request on a 2 – 0 vote.

6. **AB 1165 Implementation (BCP #5c).** The Administration requests $490,000 (special funds) in one-time funding and $89,000 and 1.4 position ongoing to implement AB 1165 (Ch 749, St. of 2007, Maze). Assembly Bill 1165 authorizes law enforcement to issue a notice of suspension and impound the vehicle of a person who is found driving while on probation for a prior alcohol offense if that person has any measurable amount of alcohol in his or her blood. The requested augmentation would fund consultant costs and data center costs of $434,000 for information-technology programming modifications and $11,000 for printing (both one-time), and ongoing funding of $89,000 and 1.4 positions for workload.

   Staff Comment: The final legislative bill analysis for AB 808 had estimated one-time costs of $542,000 and ongoing costs of $12,000 for DMV to implement this bill (for computer programming and ongoing printing costs), and $88,000 for DMV staff workload. Relative to the bill analysis, the BCP requests about $108,000 less for computer programming. The BCP indicates that the staff workload would result from an estimated 1,200 additional individuals requesting a DMV administrative hearing.

   As an additional consideration, the general direction from the Full Budget Committee is to defer or eliminate new programs and initiatives. Unlike AB 462, this bill does not include new revenue to fund the cost of the new program. If the BCP is rejected, the Administration would not be prohibited from funding this new activity with redirected budget resources.

   Staff Recommendation: Reject this request.

Action: Rejected the request on a 2 – 0 vote.

7. Federal REAL ID Act. On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. In 2006, the DMV estimated implementation of Real ID would cost the State $500 million to $750 million. Final regulations from the federal government on the implementation of Real ID were released on January 11, 2008. The Department should update the subcommittee on the final regulations and the impact they will have on California.

Background / Detail: In 2006-07 the Administration submitted, and the Legislature approved, $18.8 million for information technology improvements and planning activities to improve DMV's customer service and data collection – all related to Real ID. The Legislature added budget bill language specifying that the funding did not implement Real ID for California, but rather improved efficiencies at the DMV to facilitate implementation at a later date, should enacting legislation be approved. In 2007-08, no budget changes were requested related to Real ID, although the Legislature did add a quarterly reporting requirement. The Administration did not request any budget changes for Real ID in 2008-09. Real ID will cause inconvenience for California driver license holders, because most people will have to go to a DMV field office to re-verify their identity. Upon full implementation, Real ID will require people without a passport to have a compliant driver's license or identification card in order to enter a federal building or cross an airport checkpoint.

Final Federal Real ID Regulations: The final regulations differed in significant ways from the draft regulations. Most significantly, States have until 2017, instead of 2013 to fully comply with the Real ID Act. The final regulations allow states to apply to delay initiation of Real ID (i.e. begin the issuance of compliant ID cards) from May 2008 to December 2009 – DMV indicates it has already applied for, and received approval of, this extension. As a condition of receiving a second extension to May 2011, States must certify that certain "benchmarks" have been met.

LAO Comments: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst makes the following points:

- The regulations provide no guidance to states on how to establish several national databases to verify identity documents that would be needed to implement the Act.
- Real ID privacy concerns are not fully addressed in the regulations – for example future legislation may be needed to address third-party use of personal information included in the machine-readable ID card.
- There is no serious federal plan to fund the full implementation cost of Real ID.
- The DMV should report on its revised implementation plan and costs.

DMV Letter to Department of Homeland Security Secretary Chertoff: On March 18, 2008, the DMV sent a letter to Secretary Chertoff indicating that California's request for an extension to December 2009 is not a commitment to implement REAL ID. The letter cites the State's concerns over: the absence of adequate federal funding; the lack of specificity regarding how to protect and secure personal information; and the design and support of required electronic verification systems that are critical to the program.

Staff Comment: The DMV should speak to each of the points raised by the LAO and their recent letter to Secretary Chertoff. Additionally, the Department of Homeland Security has approximately $80 million in federal funds available for state grants and has a deadline of April 4 for applications. The DMV indicates it intends to apply for federal funding, but at the time this agenda was finalized, couldn't describe the amount or nature of its request. The DMV should update the Subcommittee on its application for the federal Real ID grants.

The Administration did not submit any BCPs for 2008-09 related to Real ID, and given the implementation extensions in the final regulations, the Administration may not submit any Spring Finance Letters related to Real ID. However, if the DMV does receive a federal grant, they will likely submit a Section 28.00 letter to expend the funds. Since the grant application is April 4, the Subcommittee may want DMV to report at a subsequent hearing on their final grant proposal and the amount of funding requested.

Staff Recommendation: Keep issue open – the Subcommittee may want a further update from DMV at a subsequent hearing.

Action: Held issue open and asked the DMV to update the multi-year estimate of Real ID implementation costs prior to the next hearing. Requested that the level of detail be at, or above, the detail level of the estimate provided two years ago. Also, ask the DMV to report on its planned use of biometric technology with or without the implementation of Real ID.

8. Information Technology Modernization (Governor's Budget). The Administration requests 2008-09 funding of $32.6 million (various special funds) for year three of the Information Technology Modernization (IT Modernization Project). Previously, the Legislature approved $2.1 million for 2006-07 and $23.9 million for 2007-08. The overall project has a cost estimate of $242 million. Additionally, the Legislature added an annual report requirement during the life of the project.

Detail / Background: The DMV indicates it will take a multi-year incremental approach with "modular" progress – the intent is to migrate existing functions over to the new system over time such that some benefits are realized prior to full implementation, and risk is reduced. The incremental program would involve the separate migration of the drivers' license database and then the vehicle registration database. The new database would maintain a link to the old while several hundred software systems that need to be updated are shifted from the old to the new database. The incremental approach to this project (which may mitigate risk) is partly motivated by an unsuccessful DMV IT modernization project in the mid-1990s. If project costs escalate, or if implementation problems arise, the Legislature could decide to limit funding and direct the DMV to re-scope the project to focus, for example, on just the drivers' license database.

Staff Comment: The first annual report included the good news that <u>the winning bid for the primary vendor came in at $75.9 million – which is $49.5 million less than the project estimate</u>. The winning bid was from Electronic Data Corporation and EDS Information Services LLP. While the final procurement was completed five months behind schedule, awarding a contract is a major milestone that sometimes can be drag for years due to disqualified bidders or litigation by loosing bidders. The Administration indicates that they will be doing a Special Project Report to but that this may not be completed until July.

Staff Recommendation: No action is necessary because full funding for this project was approved last year. However, the Special Project Report will allocate the cost savings across fiscal years, and this new expenditure plan should be reflected in next year's budget for 2009-10.

Action: No action taken - informational.

9. **Overall IT Portfolio (Informational).** The DMV has a challenging number of medium to large information technology IT projects that were approved for funding in prior years and are underway. Excluding IT Modernization (discussed above), there are six other projects ongoing with a total budgeted cost of $92 million. The list below indicates the other major projects with costs and updated completion dates:

- Driver License/ Identification/ Salesperson Contract (DL/ID/SP) – budgeted cost of $11.4 million and current finish date of January 1, 2009.
- Document Imaging System Replacement (DISR) – budgeted cost of $5.5 million (OK) and current finish date of *February 8, 2008*.
- International Registration Plan, (IRP) System Replacement – budgeted cost of $11.1 million and current finish date of January 2, 2009.
- Web Site Infrastructure (WSI) / Expanded Name Field (ENF)) – budgeted cost of $34.1 million and current finish date of September 29, 2008.
- Remittance System Replacement (RSR) – budgeted cost of $8.0 million and current finish date of January 2, 2009.
- Telephone Service Center Equipment Replacement (TSCER) – budgeted cost of $21.2 million and current finish date of July 31, 2008.

Staff Comment: While the largest DMV information technology challenges are still ahead, the department has achieved some success already – the Document Imaging System Replacement project and the Expanded Name Field segment of the WSI/ENF project have been completed. The DMV should be prepared to provide a brief overview to the Subcommittee of the status of this portfolio of projects.

Staff Recommendation: Informational – no action necessary.

Action: No action taken - informational only. The DMV will also update information on planned project completion dates.

2720 California Highway Patrol

The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

The Governor proposes $1.929 billion in total expenditures (no General Fund) and 11,195 positions for the CHP, an increase of $49 million and 227 positions.

Issues Proposed for Vote Only:

1. **Office of Fleet Administration – Interagency Fees (BCP #5).** The Administration requests an ongoing augmentation of $382,000 (Motor Vehicle Account) to fund the Department of General Services (DGS) fleet asset management fee. This fee has been assessed on the CHP since 2006-07; however, the CHP has absorbed the fee in 2006-07 and 2007-08. The Subcommittee approved a similar BCP for Caltrans last year and the Administration is requesting an analogous funding increase for the CHP.

2. **California/Mexico Boarder Commercial Vehicle Inspection - Staffing (BCP #6).** The Administration requests authority to make 14.0 administratively-established positions permanent. The positions would be funded with $1.5 million in federal funds the State will receive to provide additional commercial inspection staff at the California/Mexico border to comply with added inspection and education efforts necessary as a result of the implementation of the North American Free Trade Agreement (NAFTA). Due to the uncertainty of federal grant funding, the CHP has been requesting federal spending authority through the Section 28.00 process and administratively establishing these positions each year. However, with the expected completion of a permanent Inspection facility for the Tecate area, and the on-going history of grant funding, the CHP is requesting permanent position and spending authority at this time.

3. **Relocation to New Inland Empire Traffic Management Center (BCP #4).** The Administration requests an augmentation of $1.9 million ($265,000 ongoing) in Motor Vehicle Account funds for moving costs and higher lease costs at the new Inland Empire Traffic Management Center (IETMC). The CHP move its dispatchers will share this new facility with Caltrans to better coordinate incident management and emergency response. The new facility is build to an "essential services building" standard, which means it should stay fully operational in the event of a major earthquake, power outage, etc.

4. **Construction or Renovation of State-owned Facilities (COBCPs #1, 3, 4, & 5).** The Administration requests $4.0 million (Motor Vehicle Account) in 2008-09 for three capital outlay projects for state-owned facilities and an additional $225,000 for Department of General Services planning for future projects. When future construction costs are added, the total cost for these three projects (in 2008-09 through completion) is $32.3 million.

   Background / Detail: The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The three projects and phases are as follows:

   - **Quincy Area Office – Replacement (Preliminary Plans):** $692,000 is requested for 2008-09 for land acquisition and preliminary plan development. The Administration will likely submit a BCP for 2009-10 requesting $416,000 for working drawings and a BCP for 2010-11 requesting $10.5 million. Total project costs, including the future construction BCP request, are estimated at $11.6 million.
   - **Santa Fe Springs Area Office – Replacement (Working Drawings):** $1.2 million is requested for 2008-09. The Legislature approved $6.3 million for preliminary plans and land acquisition for this project in 2007-08. Total project costs, including a future construction BCP request, are estimated at $24.8 million.
   - **Bishop Area Office – Reconfiguration (Design & Construction):** $2.2 million is requested for 2008-09 to reconfigure the Bishop Area Office by expanding the CHP area into space formerly occupied by the Department of Motor Vehicles.

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

Staff Recommendation on CHP Vote-Only Calendar: Approved the requests.

Action: Approved all vote-only issues on a 2 – 0 vote.

Issues Proposed for Discussion / Vote:

5. **Enhanced Radio System (Required Report).** The budget includes $116.3 million for the 2008-09 cost of upgrading the CHP's public safety radio system. In 2006-07, the Legislature approved this five-year project that has total costs of about $500 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. As part of last year's project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1. At the time this agenda was finalized, the CHP report had not been submitted.

   Staff Comment: The CHP should update the Subcommittee on the radio project.

   Staff Recommendation: Keep issue open and direct staff to review the report when submitted and agendize this issue at a subsequent hearing as warranted.

Action: Held issue open. The CHP will submit the required report and staff will bring this issue back on a future agenda if warranted.

6. **Officer Staffing Augmentation (BCP #1).** The Governor requests $21.5 million ($22.4 million ongoing) to add 70 uniformed positions, 11 uniformed management positions, and 33 non-uniformed support positions in 2008-09 (an additional 50 uniformed positions would be added in 2009-10 for a total increase of 120 Patrol Officers). Over the last two years, the Legislature has approved a staffing increase of 471 positions (360 Officers, 32 uniformed managerial, and 79 non-uniformed support staff). The CHP indicates that this year's budget requests would help address the continual increase in workload associated with population growth throughout the state. It is important to note, the Governor's Budget includes $40 million in one-time savings from about 300 vacant officer positions in 2008-09 including those requested in this BCP (normally the budget does not include "salary savings" for Officer positions – meaning that it is assumed cadets are in the Academy to replace Officers as they retire so there are no vacancies in terms of budget).

   Detail / Background: The need for additional CHP officers was discussed in several CHP reports and LAO analyses at the time the growth in staff began several years ago. Additional staffing was deemed particularly necessary in CHP divisions that had seen large increases in vehicle registrations and highway travel. One measure considered was the growth for vehicle collisions between 2000 and 2004. With staffing increases requested in this BCP, the number of Officers would be 6,493 in 2008-09 and 6,543 in 2009-10.

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

   Staff Comment: The CHP has indicated that they may be able to marginally increase the number of new Officers graduating from the academy beyond that assumed in the Governor's Budget – the Governors budget assumed 386 Officer vacancies in 2008-09, but the CHP may be able to reduce that to 373 vacancies. However, contingency vacancy funding of $6 million is retained in the budget for new Officers (or reduced attrition) relative to expectations. The CHP disagrees with the LAO recommendation related to management and support staff, indicating that those positions address base deficiencies, and are not tied directly to the new Officer positions.

   While the Legislature may want to add additional Officers with the 2009-10 budget, it is unclear why positions should be added in 2008-09 that cannot be filled. The CHP indicates that rejection of the BCP would slow the pipeline of recruiting and they may decide to reduce the May 2009 academy class pending approval of a staffing BCP for 2009-10. However, slowing the pipeline and the reducing the academy class size in May 2009 would be a discretionary Administrative decision and not strictly dictated by the finalization of the 2009-10 budget.

While the requested support positions may be needed partially for base workload, that workload should also be offset by the vacant Officer positions.

If this BCP is rejected, it should be without prejudice to out-year requests for additional CHP Officers when the CHP would actually be able to grow the Officer ranks to the requested level.

Staff Recommendation: Reject this BCP, which when combined with the existing budget savings for vacancies only reduces appropriations by $4 million.

Action: Held issue open. The CHP will provide further information on the staffing assumptions.

7. **Budget Funding for Tactical Alerts (LAO Issue).** The Governor's Budget includes $10 million to pay overtime in the event of tactical alerts. Following September 11, 2001, CHP officers were placed on 12-hour shifts, or "tactical alerts," to enhance preparedness. In 2002-03, the Legislature provided a budget increase of $32.5 million to fund further tactical alerts and adopted budget bill language requiring that any unused funds revert to the Motor Vehicle Account.

   Background / Detail: In 2003-04, the Administration reduced tactical alert funding through a baseline adjustment by a reduction of $5.9 million and a redirection of $1.8 million to cover workers' compensation costs. Additionally, the Administration removed the budget bill language that reverted the unspent amounts. In 2002-03, the CHP expended $17.4 million for tactical alerts and in 2003-04 it expended $3.2 million. In 2004-05 and 2005-06, the CHP did not track tactical alert costs. Last year, the Legislature restored the reversion language and cut tactical alert funding to $10 million and added a December 31 report requirement for the use of tactical alerts in the prior year.

   LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the LAO recommends that the Legislature eliminate the budgeted funding for tactical alerts. At the time the LAO did the *Analysis,* the December 31, 2007, report had not been submitted. Without the report to evaluate the budget need, the LAO argues there is no basis to justify the funding.

   Staff Comment: The December 31, 2007, Tactical Alert report was submitted by CHP on March 7, 2008, and indicates there were no expenditures for tactical alerts in 2006-07. However, staff understands there were tactical alert expenditures in early 2007-08 associated with large fires. Given that tactical alerts are unused in some years and reporting is not timely, Staff recommends the following placeholder alternative budget bill language and budget treatment:

   2720-002-0044—For augmentation to fund tactical alerts for declared emergencies and immediate threats to public safety as determined by the Commissioner of the California Highway Patrol, payable from the Motor Vehicle Account. …………………………………………………………………………….($10,000,000)
   Provisions:
   1. *For the purpose of this item, a tactical alert occurs when officers are placed on 12-hour shifts to enhance emergency preparedness and emergency response.*
   2. *By December 31, 2009, the department shall report to the Joint Legislative Budget Committee on the activities funded by this item.*

   The alternative would delete $10.0 million from the main item of appropriation, delete related budget bill language, and add a new appropriation item that would allow expenditure up to $10.0 million for tactical alerts. Since this is a separate item of appropriation, it would be separately identified in the three-year display in the January 10 Governor's Budget. The actual past-year expenditure for this purpose would also be included in the Governor's Budget. Note, this treatment is similar to an emergency item in the Caltrans budget. Like the Caltrans item, this is reflected as a “non-add” – it is available for emergencies but is not budgeted as an expenditure.

Staff Recommendation: Approve the revised budget treatment for tactical alert funding, including “placeholder” budget bill language.

Action: Approved revised budget treatment on a 2 – 0 vote.

8. **Implementation of New Gang Program (Governor's Budget).** Near the end of last year's budget process (after the submittal of May Revision Finance Letters), the Administration requested a CHP budget augmentation of $7 million to increase CHP support for local law enforcement in anti-gang activities. The Administration's "CalGRIP" request was made after the Subcommittee had completed its work and the budget augmentation was made in the Conference Committee. Since Sub 4 did not discuss this change last year, the CHP should be prepared to discuss the implementation of the program including expenditures to date in 2007-08 and what local initiatives were supported.

Staff Comment: The CHP should update the Subcommittee on its implementation of the anti-gang program. The program funds additional CHP overtime to allow patrolling of high gang frequency areas enforcing vehicle and penal code violations or working with specialized gang task forces. The CHP has entered into Memorandum of Understandings with 10 local governments so far:

Operational Area	Allocation
Oakland PD	$ 559,000
Richmond PD	270,000
Fresno County	115,000
Monrovia PD	400,000
Desert Hot Springs PD	100,000
Monterey County	50,000
Ventura County	200,000
San Bernardino	155,000
San Benito	75,000
Los Angeles County	2,500,000
Total	$4,424,000

CHP anticipates additional local government requests in the future, but in 2007-08 it is expecting only $4.4 million of the $7 million appropriated will be expended. The balance of $2.3 million will revert.

As an additional consideration, the general direction from the Full Budget Committee is to defer or eliminate new programs and initiatives, and focus on core State responsibilities.

Staff Recommendation: No action is necessary on this issue; however, the Subcommittee may want to open this issue at a subsequent hearing to consider the appropriate level of ongoing funding in the context of overall budget priorities.

Action: No action taken, but the Subcommittee may further consider this issue at a future hearing.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Hearing Outcomes

(Senators in attendance were Machado and Kehoe, so 2-0 votes reflect the votes of those Senators. Ackerman attended as non-voting observer.)

Wednesday, March 26, 2007
9:30 a.m.
Room 113

Consultant: Bryan Ehlers

Item Number and Title **Page**

Vote-Only Items

Discussion Items

Items Proposed for Vote-only

0850 California State Lottery Commission

The California Constitution authorizes the establishment of a statewide lottery. An initiative statute, the California State Lottery Act of 1984 (Act), created the California State Lottery Commission and gave it broad powers to oversee the operations of a statewide lottery. The primary purpose of the Act is to provide supplemental monies to benefit public education without the imposition of additional or increased taxes. The lottery is administered by a five-person Commission appointed by the Governor and confirmed by the State Senate.

Staff Comment: The Lottery forecasts revenue projections in May/June annually. However, because of the inherently variable nature of lottery ticket sales, revenue estimates for 2007-08 and 2008-09 cannot be made with certainty. The Governor's Budget contains the Lottery's "Statement of Operations" and "Distribution of State Lottery Education Fund Revenues" for display purposes only, as the Act and subsequent legislation dictate the allocation of most lottery revenues and leave discretion to the Commission to allocate the remainder.

9860 Capital Outlay Planning and Studies Funding

This budget provides funding to be allocated by the Department of Finance to state agencies to develop design and cost information for new projects.

CS 11.10 Reporting of Statewide Software License Agreements

Control Section 11.10 generally sets the terms by which a department may enter into or amend a statewide software license agreement not previously approved by the Legislature when state funds are to be used in the current or future budget years.

Staff Comment: The Administration has proposed no changes to this control section.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE all vote-only items as proposed by the Governor.

VOTE on Vote-Only Items:

Action: All items on the Vote-Only calendar were approved on a 2 – 0 vote.

Items Proposed for Discussion

0502 Office of the Chief Information Officer

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

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

DISCUSSION ITEMS:

1. Informational Item: Update on Progress Toward Establishing the OCIO (Implementation of Chapter 183, Statutes of 2007—SB 90). SB 90 (Committee on Budget and Fiscal Review) of 2007 authorized the Office of the State Chief Information Officer (OCIO) to establish and enforce information technology (IT) strategic plans, policies, standards, and enterprise architecture; and approve, suspend, terminate, and reinstate IT projects for all state departments (with certain exceptions). Additionally, the bill called for the transfer, effective January 1, 2008, of the majority of the Office of Technology Review, Oversight, and Security (OTROS) from the Department of Finance to the OCIO. The measure also required the OCIO to produce an annual IT strategic plan beginning January 15, 2009.

Staff Comment: On December 6, 2007, the Governor appointed Teresa (Teri) M. Takai as the state chief information officer (CIO). Ms. Takai previously served as director of the Michigan Department of Information Technology (MDIT) beginning in 2003, and also served as the state's chief information officer. In this position, she restructured and consolidated Michigan's resources by merging the state's information technology into one centralized department to service 19 agencies and over 1,700 employees. The subcommittee may wish to hear from the CIO on the steps she has taken to date to implement SB 90.

Additionally, the subcommittee may wish Ms. Takai to respond to some or all of the following questions:

1. Having recently relocated to California from Michigan, what are the strengths and weaknesses of California's IT as you begin your tenure as the state CIO? For example, how does California compare to Michigan or other large states? Are the challenges facing California's IT largely similar to other states? Or, are there challenges unique to California?
2. What is your vision for California's IT both in the near-term (the coming year) and the long-term (the next three to five years)? What concrete steps are necessary in the coming months and by what milestones will the Legislature know that we are headed in the right direction?

3. How do you envision the OCIO's relationship with other state agencies? For example, to what extent (and how) will input from the various state agencies be elicited in shaping statewide IT policy, and to what extent will the OCIO need to function as a control agency in a "top-down" mode?

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

Staff Comment: When implementation of the OCIO was approved last year, the Legislature approved funding on a one-time basis from the Department of Technology Services (DTS) Revolving Fund. Because the DTS does not serve all state agencies, but the OCIO does, the agreement was that a more appropriate permanent funding source would have be identified beginning in Fiscal Year (FY) 2008-09.

Staff notes that a number of central service departments such as the State Controller's Office, the State Treasurer's Office, and the Department of Finance (DOF), currently operate on a Pro Rata and SWCAP cost recovery program. On paper, these departments are general funded, but they use Pro Rata and SWCAP to collect special and federal funds (respectively) as partial reimbursement for the services they provide to other state agencies. Under this proposal, the OCIO would effectively bill all state agencies, whether general funded, special funded, or federal funded, for their fair share of the OCIO's costs.

Staff Recommendation: APPROVE the OCIO budget.

Action: Held open. (The Chair initially motioned to approve the OCIO's budget, and a 2-0 vote was taken, but, a short time later, at the request of Senator Ackerman, the Chair held the item open as a courtesy to an absent Senator Dutton.)

3. Informational Item: Clear Reporting to Legislature on OCIO Delegation of Authority to Departments. In establishing the OCIO, SB 90 added language to the Government Code (Section 11546(b)) providing the office the authority to delegate any of its project authority to a department based on the OCIO's assessment of the department's project management, project oversight, and project performance.

Staff Comment: In order to maintain a clear chain of accountability, the subcommittee may wish the Administration to clarify how the Legislature would be notified when the OCIO delegates its authority.

4. Informational Item: OCIO Not Asked to Participate in Governor's Ten Percent Across-the-Board GF Reductions. The Governor proposes 10-percent, across-the-board reductions for all General Fund departments and programs, Boards, Commissions, and elected offices—including the legislative and judicial branches—except where such a reduction is in conflict with the state constitution or impractical.

Staff Comment: Staff notes that the Governor did not propose to reduce the OCIO budget despite the fact that such a reduction would be neither unconstitutional nor impractical. The subcommittee may wish the Administration to explain why the OCIO was not required to take a reduction like other general funded departments.

0650 Office of Planning and Research

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

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

Program	General Fund*	Personnel Years (PYs)
State Planning and Policy Development	-$431	--
California Volunteers	-$627	--
TOTALS	-$1,058	--

(*dollars in thousands)

As illustrated in the table below, the net effect of the Governor's proposals would be a 3.0 percent decrease in total funds from adjusted Fiscal Year 2007-08, including approximately $1.2 million less in GF.

	Total Funds*	General Fund*	Positions
Adjusted 2007-08 Budget	$52,611	($10,678)	96.1
2008-09 Base Budget	$52,041	($10,581)	99.1
Proposed Budget-Balancing Reductions	-$1,058	(-$1,058)	--
GOVERNOR'S REVISED 2008-09 TOTALS	$50,983	($9,523)	99.1
Change—Year Over Year	-3.0%	-10.9%	+3.1%

(*dollars in thousands)

DISCUSSION ITEMS:

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

Staff Comments: The CEQA, as the state's primary environmental law, requires analysis and disclosure of potentially significant environmental impacts before a public agency approves a project. The CEQA guidelines are the state regulations that explain and further interpret the CEQA statute for both public agencies and for the public generally, so that the CEQA process is understandable to those who administer it, to those subject to it, and to those who benefit from its existence.

Staff notes that the OPR is already home to the State Clearinghouse (SCH), which coordinates the distribution of environmental documents prepared under the CEQA to state agencies for their review and comment, and the OPR is also currently responsible for recommending guideline revisions to the Resources Agency (which, according to OPR staff, it has done on an average of every 2-3 years for the last 9 years). Notwithstanding the OPR's expertise in CEQA matters, the office indicates that it does not currently possess the staff resources or expertise necessary to engage in a timely manner an issue as complex and contentious as mitigation of greenhouse gas emissions. Therefore, the OPR requests a scientist and an attorney, as well as a program director and an administrative assistant, to carry out the requirements of SB 97.

Staff Recommendation: APPROVE the request.

Action: Held Open (as a courtesy to an absent Senator Dutton). The Chair indicated an inclination to deny the proposal unless the Administration is able to show that the request would directly impact health and safety, and/or generate off-setting savings.

2. BCP-2: California Volunteer Matching Network. The OPR requests $766,000 GF and 3.0 positions ongoing to continue the California Volunteer Matching Network (CVMN).

Staff Comments: The 2006-07 Budget Act provided: (1) two-year, limited-term funding for the CVMN to launch a Web site that pulls together local volunteering opportunities and posts them all in a single, state-operated database; and (2) assistance to existing walk-in volunteer "hubs" (henceforth, Hubs) which are operated by nonprofit organizations and help match potential volunteers with volunteer opportunities. The Administration requests to permanently establish the CVMN.

According to the OPR, the CVMN addresses a "gap" between the need for volunteers and the Californians who would serve if given access to the information they need to connect with volunteer opportunities in their communities. The OPR cites increases in the number of visitors to Hub websites and the number of volunteers registered in Hub databases as evidence that the CVMN is in fact filling the alleged gap and turning "would-be" volunteers into "real" volunteers.

Staff notes, however, that the OPR is unable to track the number of CVMN users who actually decide to volunteer, and, more importantly, the OPR cannot provide conclusive evidence that the CVMN induces people to volunteer who would not have otherwise. As noted by the Legislative Analyst's Office (LAO) in its "Analysis of the 2008-09 Budget Bill," there are many Web sites that provide potential volunteers the ability to search for opportunities in the state. While the OPR claims credit for having linked at least 4,000 people with VolunteerSanDiego.org during last summer's fires in that region, there is no reason to believe that many, if not all, of these volunteers would not have located volunteer opportunities through other means (for example, the *www.HelpinDisaster.org*).

Ultimately, the lack of evidence showing a causal link between the CVMN and increased volunteerism is not a sufficient basis for concluding that the CVMN provides no benefit to the state. However, the lack of evidence identifying a clear and quantifiable benefit is sufficient to place the CVMN well down the list of priorities for the use of scarce GF that could otherwise be used to fund programs with well-documented benefits. This being the case, the subcommittee may wish to deny the requested GF, but encourage the OPR to return with a plan, including Trailer Bill Language, to continue the program using non-state funds (similar to the model currently employed to fund the state's international trade office in Armenia). If the CVMN is as valuable to volunteerism in the state of California as the OPR maintains, perhaps a philanthropic organization (or organizations) would be willing to provide the funding necessary to carry on the work the state has piloted.

Staff Recommendation: DENY the request, but invite the Administration to return with a proposal to continue the CVMN with non-state funding.

Action: Approved the staff recommendation on a 2-0 vote.

3. BBR: California Volunteer Marketing Network—Reduction in Marketing Funds. The Governor proposes a $127,000 GF reduction to the funding available to contract for marketing expertise and activities that would assist in promoting the CVMN to Californians.

Staff Comments: During Special Session, the Legislature approved a $375,000 GF reduction in the current fiscal year for these same activities. If the subcommittee denies Item 2 (above), then this proposal is moot and should be denied. However, if Item 2 is approved, then the subcommittee may wish to increase this reduction consistent with action taken in Special Session.

Staff Recommendation: DENY the proposed reduction (because it would be redundant of the staff recommended action in Item 2, above).

Action: Approved the staff recommendation on a 2-0 vote.

4. BBR: Reduction in Cesar Chavez Grant Program. The Governor proposes to reduce by $500,000 GF the amount of funding available for grants that support afterschool service learning programs in middle schools and/or legacy projects in local communities.

Staff Comments: The Cesar Chavez Day of Service and Learning program is established in state statute with an annual appropriation of $5 million GF to promote service to the communities of California in honor of the life and work of Cesar Chavez. Under the program, California Volunteers makes grants to specified programs that engage students in community service that may qualify as instructional time on Cesar Chavez Day and meet certain criteria specified in statute.

These grants were suspended previously from 2003-04 through 2005-06, due to the state's budget shortfalls, and the LAO recommends doing so again in order to save $5 million GF in 2008-09. Staff notes that the following Trailer Bill Language would mirror language adopted previously by suspending the appropriation for two years:

> *Section 6 of Chapter 213 of the Statutes of 2000 is amended to read:*
> *SEC. 6. The following sums are hereby appropriated from the General Fund to be allocated according to the following schedule:*
> *(a)<u>(1)</u> Five million dollars ($5,000,000) to the California Commission on Improving Life Through Service, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.*
> *<u>(2) This subdivision shall be inoperative from July 1, 2008, to June 30, 2010.</u>*
> *(b) One million dollars ($1,000,000) to the Superintendent of Public Instruction for the purpose of developing or revising, as needed, a model curriculum on the life and work of Cesar Chavez and distributing that curriculum to each school.*

Staff Recommendation: INCREASE the proposed reduction by $4.5 million GF (for a total of $5 million), and DENY the Administration's proposed trailer bill language. Instead, APPROVE the language above in order to effectuate the $5 million reduction.

Action: Approved the staff recommendation on a 2-0 vote.

VOTE-ONLY ITEM:

1. BBR: Reduction of State Planning and Policy Development Program. The Governor proposes a $431,000 GF reduction to this program, whose major activities include: (1) policy research for the Governor and Cabinet; (2) recommending and implementing state policies with regard to land-use and growth planning, including joint use land planning with the military; (3) providing technical advice to local governments with regard to planning; and (4) advising permit applicants and government agencies on provision of the CEQA and operates the SCH for environmental and federal grant documents.

Staff Comments: The OPR has indicated the following regarding this proposed reduction:

OPR has crafted its budget to maintain statutory operations and current service expectations at the SCH. The SCH currently achieves a one-day turn around on most document processing and data entry activities; this rate exceeds the statutorily required three day maximum. While it is not our intent, as we are proactively realigning workload in other units as well as cross training to leverage personnel skill sets, the budget may impact the SCH in the following ways:

- *Processing of draft documents may be extended to the maximum 3 day turn around.*
- *Entry of documents to the database may be delayed.*
- *Technical assistance may be reduced in order to keep up with the daily statutory responsibilities related to processing and posting of the CEQA documents.*
- *Training and outreach to state agencies may decrease.*
- *Involvement on state agency working groups and presentations for state agencies would be significantly limited, so SCH staff can focus on our core statutory obligations.*

Specifically, OPR will achieve its BY reductions through the following actions:

Personnel:

- *Two positions to remain vacant (research/policy and legislation)*
- *Reduce student assistants*

O E & E

- *Travel: moratorium on non-essential travel*
- *Training, Conferences Seminars: reduction in non-essential participation*
- *Equipment: replacement delayed and unused equipment contracts terminated*
- *Telecommunications: usage reductions and contracts reevaluated (done)*
- *Subscriptions: reduced or cancelled*
- *Existing Contracts: negotiations to lock in 2007-08 rates*

STAFF RECOMMENDATION ON VOTE-ONLY ITEM: APPROVE AS BUDGETED.

Action: Approved the staff recommendation on a 2-0 vote.

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs.

The Governor's Budget begins by funding 1,386.3 positions (a net decrease of 2.2 positions over adjusted current year totals) and budget expenditures of $185.7 million (including $89.9 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction (Budget-Balancing Reduction–BBR) of approximately $9.0 million.

VOTE-ONLY ITEMS:

1. BCP-2B: Transportation Audits. The SCO requests 15.0 positions and $1.9 million in reimbursement authority to provide audit services to the California Department of Transportation (Caltrans) for Proposition 1B funds.

Staff Comments: Proposition 1B of 2006 authorized $19.5 billion in general obligation bonds for various transportation projects. Caltrans has primary responsibility over administration of the funds and has requested the SCO to provide audit services for at least seven years through an interagency agreement. The following table reflects the SCO's anticipated audit costs, which would be funded through bond proceeds:

Year	Positions	Funding
2007-08	12.0	$1,484,000
2008-09	15.0	$1,876,000
2009-10	17.0	$2,168,000
2010-11	17.0	$2,168,000
2011-12	17.0	$2,167,000
2012-13	17.0	$2,178,000
2013-14	19.0	$2,411,000

Staff notes that, as reflected in the table, the SCO began work on these audits in the current fiscal year (CY) through a technical adjustment to its reimbursement authority. The funding for the audits had already been approved during the 2007-08 budget process as part of a Spring Finance Letter.

2. BCP-2C: California State University Audits. The SCO requests 4.0 positions and $422,000 in reimbursement authority to provide audit services to the various California State University (CSU) campuses.

Staff Comments: Chapter 79, Statutes of 2006 (AB 1802) revised the Education Code to permit the 23 individual CSU campuses to deposit into a local trust account the monies they collect for higher education tuition and fees from students. While this meant that CSU tuition and fees would no longer be appropriated through the state's normal budgetary process, AB 1802 provided for oversight by authorizing the SCO to conduct audits of the trust accounts to verify that sufficient controls exist to ensure that payments from the trust accounts are legal and proper.

Through a technical adjustment to the CY budget, the SCO has already begun work on these audits, and indicates they will be ongoing for as long as the student fee trust accounts exist.

3. BCP-8: Bond and PMIA Loan Program. The SCO requests 3.0 positions and $277,000 in reimbursement authority to address the increased number of bonds and associated loans being processed in the state's Bond Pooled Money Investment Account (PMIA) Loan Program.

Staff Comments: According to the SCO, the number of bonds, loans and associated accounts has tripled since 1987, and the Bond Acts passed by the voters in 2006 and being implemented in the current fiscal year will include more than 100 new bond/loan accounts. Although the 3.0 existing staff associated with this workload have managed to address much of the historical increase through improved efficiency (primarily generated by the transition from paper to electronic processes), the SCO indicates redirection and overtime are no longer sufficient to fill the emerging staff deficit.

Staff notes that the State Treasurer's Office budget contains a request for the bond fund authority necessary to supply the SCO with the reimbursement for these activities.

4. BCP-10: Governmental Accounting Standards Board (GASB) Statement No. 45 Workload. The SCO requests 2.0 positions (including conversion of 1.0 limited-term positions to permanent) and $399,000 ($200,000 Unallocated Bond Funds and $199,000 Public Employees' Health Care Fund) to perform work related to compliance with new requirements for GASB Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions (OPEB). Of the requested amount, $186,000 would be used to fund the 2.0 positions and $213,000 would be used for contracts.

Staff Comments: GASB is the standard setting body that promulgates Generally Accepted Accounting Principles (GAAP). Producing GAAP-compliant annual financial statements helps disclose the quality of the state's financial management and assists in the process of issuing debt by protecting the state's credit rating.

5. BCP-12: Remittance Processing Workload. The SCO requests 1.0 position and $93,000 in reimbursement authority to address increased workload related to revenues processed from counties and courts.

Staff Comments: The number of remittances received by the SCO has increased steadily over the past 10-15 years, while multiple new laws have increased the complexity and expanded the scope of the work required to process each remittance.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

Action: Approved the staff recommendation on a 2-0 vote.

DISCUSSION ITEMS:

1. BCP-3B: Unclaimed Property Program Fund Shift. The SCO proposes to convert GF appropriations for Unclaimed Property Program (UCP) functions to Unclaimed Property Fund appropriations. For FY 2008-09, this would reduce the SCO's GF appropriation by $26.1 million and increase the Unclaimed Property Fund appropriation by the same amount.

Staff Comments: Because monies in the Unclaimed Property Fund are ultimately revenue to the GF (if unclaimed by the rightful owner), this proposal would neither help nor harm the state's bottom line. However, by moving support for the UCP out from under the "General Fund" umbrella, this proposal would serve to insulate the program against future fluctuations in GF availability. For example, a 10-percent, across-the-board GF reduction would not affect the UCP under this proposal. Staff notes that safeguarding the program's funding would better protect the property rights of the state's citizens, and would be consistent with the direction the state has received from the courts involved in the current and ongoing UCP litigation.

Staff Recommendation: APPROVE the request.

Action: Approved the staff recommendation on a 2-0 vote.

2. BCP-7: Local Government E-Claim System. The SCO requests 4.5 two-year limited-term positions and $444,000 GF to support the maintenance and operations of the Local Government E-Claims system (LGeC).

Staff Comments: The LGeC project was approved in FY 2005-06 in order to enable claimants and their consultants to securely submit mandated cost claims electronically into the SCO's Local Reimbursements system. The original project Feasibility Study Report called for a commercial off-the-shelf solution (COTS), estimated completion on November 30, 2006, and projected savings of $14.7 million beginning in 2006-07. However, due to the inadequacy of the original Adobe solution, the LGeC required a customized solution and the project was not completed until November 2007 (and will not be 100-percent operable until June 30, 2008). Staff notes that the LGeC is anticipated to save approximately $11.8 million per year beginning in 2009-10.

The primary reason for the reduction in estimated savings and the need for additional positions is that the final, customized solution requires in-house ongoing maintenance and support, whereas under the COTS the vendor would have supplied these services. The SCO indicates that 3.0 positions previously dedicated to desk audits (and therefore the generation of savings) have already been redirected to address this workload, and the requested limited-term positions reflect the minimum complement of additional staffing required to keep the system operational. Staff notes that, according to the SCO, the LGeC system would cease to function reliably and accurately without the maintenance to be provided by the requested positions.

If approved, the SCO proposes to monitor workload throughout the next fiscal year and return during the 2009-10 budget process with a clarified request based on a refined estimate of its long-term need.

Staff Recommendation: APPROVE as budgeted.

Action: Approved the staff recommendation on a 2-0 vote.

3. BCP-11: California Child Support Automation System (CCSAS). The SCO requests 2.0 limited-term positions and $201,000 in reimbursement authority to fulfill its constitutional and statutory responsibilities associated with implementing and monitoring the CCSAS.

Staff Comments: This proposal comports with the 2008-09 Budget Change Proposal and Special Project Report submitted by the Department of Child Support Services, which provides reimbursements to the SCO. Staff notes that this is the fourth year of the SCO's participation in this project.

Staff Recommendation: CLOSE the item recognizing that it will conform to the action taken in Budget Subcommittee #3 on the DCSS budget.

Action: Approved the staff recommendation on a 2-0 vote.

4. BCP-4A: Human Resources Management System/21st Century Project. The SCO requests 70.5 limited-term positions and $38.3 million ($21.9 GF; 2.9 reimbursements; and $13.5 million special funds).

Staff Comment: This request is part of an ongoing multi-year project (which was first funded in FY 2005-06) to replace existing employment history, payroll, leave accounting, and position control systems. The HRMS will also include a statewide time and attendance capability, greatly enhancing the Controller, Administration, and Legislature's fiscal oversight abilities. For example, it is expected that the system will eventually capture actual salary savings at each department, replacing the arbitrary five percent standard used statewide today.

Staff notes that a revised Special Project Report is currently under review by the Department of Finance and a Spring Finance Letter will be developed and submitted to reflect changes to this proposal.

Staff Recommendation: HOLD OPEN, pending Spring Finance Letter.

Action: Held open.

5. BCP-4B: Human Resources Management System/21st Century Project Federal Fund Repayment. The SCO requests $969,000 for reimbursement of federal funds collected in 2005-06 and 2006-07.

Staff Comment: As noted in the previous item, staff anticipate a Spring Finance Letter on the 21st Century Project, so the subcommittee should await its arrival before taking action on any related BCPs.

Staff Recommendation: HOLD OPEN, pending Spring Finance Letter.

Action: Held open.

6. BBR: Unallocated General Fund Reduction. The Governor proposes a $9.0 million unallocated reduction to the SCO's GF budget.

Staff Comments: To date, the Administration has not provided any information on how this reduction would be taken, or how it would impact SCO programs. SCO and DOF staff indicate there are ongoing talks between the two agencies regarding if and how the SCO would take the $9.0 million reduction (or some smaller portion thereof). Staff notes that the SCO's 10-percent reduction was calculated on a $90 million 2008-09 GF budget that includes not only $21 million for the 21st Century Project, but funding for constitutionally required workload such as payroll and apportionments to locals. For this reason, the SCO may have limited flexibility in terms of where it can apply any proposed reduction.

Staff Recommendation: HOLD OPEN, pending further information from the Administration.

Action: Held open.

7. Informational Item: California Automated Travel Reimbursement System's (CalATERS) Statewide Rollout. CalATERS is an automated travel expense processing system that allows state employees and department accounting offices the ability to process travel advances and expense reimbursements via the internet or an intranet. In 2007-08, the Legislature approved positions and funding for the SCO to rollout CalATERS statewide as mandated by Chapter 69, Statutes of 2006 (AB 1806).

Staff Comments: The original CalATERS study, conducted in 1995, projected annual statewide savings from an automated travel expense system of approximately $7.8 million. However, in considering last year's CalATERS proposal, this subcommittee heard discussion of the potential impact granting certain departments exemptions from participation in the program would have on these potential savings. At the time, the

SCO indicated that Caltrans was one of only three departments that had sought an exemption, and estimated Caltrans' non-participation in CalATERS would reduce statewide savings by approximately $800,000 (or roughly 10.5%).

On February 1, 2008, the DOF submitted a notification of approved exemptions for CalATERS that included 23 state entities (see Attachment A). Although Caltrans still remains by far the largest agency exempted from the program, the subcommittee may wish the SCO to comment on: (1) the impact these exemptions will have on the effectiveness of CalATERS in generating savings to the state; (2) the steps the Administration plans to take to bring all state agencies under a single, automated travel expense system; (3) the future impact on CalATERS if the state moves ahead with the FI$Cal project.

0890 Secretary of State

The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary law and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, and Information Technology and Management Services Divisions.

The Governor's Budget begins by funding 505.0 positions (a net increase of 7.0 positions over adjusted current year totals) and budget expenditures of $125.6 million (including $35.0 million GF) for the department, but then includes a 10-percent, across-the-board, unallocated GF reduction (Budget-Balancing Reduction–BBR) of approximately $3.5 million.

VOTE-ONLY ITEM:

BCP-5: AB 917 Election Security—Parallel Monitoring. The SOS requests $101,000 GF to implement Chapter 501, Statutes of 2007 (AB 917). SB 917 requires, among other provisions, that the SOS conduct parallel monitoring of each direct recording electronic (DRE) voting system on which ballots will be cast (in precincts that have more than one DRE voting system).

Staff Comments: The need for parallel monitoring was dramatically reduced as a result of the SOS's 2007 Top-to-Bottom Review, which decertified all but one DRE system (Hart Inter-Civic). Currently, only Orange and San Mateo counties use DRE systems that fall under the provisions of SB 917. Staff notes that out-year costs of AB 917 could rise if either more DRE systems become certified or more counties switch to use of Hart Inter-Civic systems.

Staff notes that the parallel monitoring was requested and authorized in the 2007-08 Help America Vote Act (HAVA) Spending Plan; however, those funds cannot be used as HAVA funds cannot be used to supplant state-mandated programs.

STAFF RECOMMENDATION ON VOTE ONLY ITEM: APPROVE AS BUDGETED.

Action: Approved the staff recommendation on a 2-0 vote.

DISCUSSION ITEMS:

1. BCP-1: Revised Spending Plan for Help America Vote Act Expenditures. The Governor's Budget includes $42.3 million in federal fund expenditure authority ($3.5 million in this item and $38.8 million in the next item) to continue implementing HAVA in accordance with a revised expenditure plan. By the end of the current fiscal year, California will have received approximately $387.3 million in federal funds (including interest) for voter equipment replacement, voter education, and related activities. Of the $42.3 million requested for expenditure in the budget, $38.8 million will be used to begin implementing the VoteCal statewide voter database (see BCP-2 below), $1.1 million to provide election assistance for people with disabilities, $1.7 million for administration, and $1.2 million for other elections-related activities (including voter education and voting systems testing/certification).

Staff Comments: Based on an LAO recommendation, the Legislature reduced the HAVA budget by $308,000 in administrative expenses last year in recognition of the fact that most HAVA requirements were implemented in time for the 2004 and 2006 elections and in anticipation of the ramping down of HAVA activities. Staff notes that the spending plan before the subcommittee this year is substantially the same as the current year adjusted HAVA budget, and the SOS indicates that it is unclear when HAVA workload will "taper off."

According to the SOS, the HAVA landscape continues to shift and the proposed spending plan reflects the SOS's need to adjust to changes at both the federal and state level. For example, the SOS notes the following developments:

- Congress just provided a new round of HAVA funding that may only be accessed by states after they have developed a new State Plan describing how they will continue to implement HAVA. California would be eligible for up to $12.9 million of these funds, but needs an advisory committee to develop the aforementioned State Plan.
- Counties are not spending their available funds as quickly as anticipated and, combined with the need to produce an ongoing spending plan, respond to audits (most recently by the Bureau of State Audits), and produce quarterly and annual reports to the Legislature, the budgeting, accounting, contracting, and administrative oversight workload is not decreasing.
- There has been a significant "evolution" in major policy arenas that directly affect the administration of HAVA. Notably, there have been changes at both the state and federal level associated with the testing and certification of voting systems, including DRE systems. Additionally, the SOS must still fulfill the terms of a binding Memorandum of Agreement between the state and the United States Department of Justice, which requires the establishment of a fully compliant, long-term statewide voter registration database (VoteCal—discussed below).

Staff notes that the proposed plan estimates a $51 million balance in HAVA funds would remain after 2008-09, and projects that approximately $25.5 million would go unspent following cessation of planned activities in 2010-11.

Staff Recommendation: APPROVE as budgeted.

Action: Approved the staff recommendation on a 2-0 vote.

2. BCP: Voter Registration Database Replacement (VoteCal). The Secretary of State requests 10.0 positions and $38.8 million in federal fund expenditure authority to replace the existing CalVoter statewide voter database with a more centralized and technologically advanced VoteCal database, and to remediate the existing county Election Management System. The VoteCal database will contain the name and registration information for every legally registered active or inactive voter in California. After all federal HAVA funds are expended these positions will be funded by state General Fund.

Staff Comments: The Legislature provided 12.0 positions and $6.9 million in federal fund expenditure authority to the VoteCal project for the current fiscal year. To date, the SOS has completed the initial procurement phase of the VoteCal project, including selection of project management services, Independent Verification and Validation services, and Independent Project Oversight Consultant and procurement vendor. The project is currently in the Vendor Selection and Project Planning Phase, which is scheduled to last throughout most of the rest of the 2008 calendar year—with the vendor contract to be awarded in December. The SOS currently anticipates the VoteCal system will be deployed in December 2009.

Although this request is consistent with an approved Feasibility Study Report (dated March 20, 2006) and an August 15, 2007, Special Project Report (SPR), an updated SPR is anticipated to be submitted in September 2008. The total project costs, including the staffing and Operating Expenses and Equipment are subject to change once a vendor is selected; however, the SOS remains optimistic that the project can be implemented for less than the original cost estimate because that estimate was based on a custom software development, and the SOS now believes that the bidders will propose substantial use of existing software. Staff notes that the rate of inflation since the estimate was made in 2004 could offset some or all of these reduced costs.

As noted last year, the VoteCal system represents an unknown out-year General Fund pressure because the state will have to fund the operation and maintenance of the system after federal funds are exhausted, which is anticipated to occur after FY 2010-11.

Staff Recommendation: APPROVE as budgeted.

Action: Approved the staff recommendation on a 2-0 vote.

3. BCP-4: SB 854 Student Voter Registration. The SOS requests $167,000 GF in 2008-09 (and $333,000 ongoing) to pay for voter registration print costs associated with implementation of Chapter 481, Statutes of 2007 (SB 854). SB 854 requires that every California Community College and California State University offer an automated voter registration option during student class registration.

Staff Comments: As discussed in full Budget Committee hearings during the special session, the current fiscal crisis requires that the Legislature consider many options that would not ordinarily be on the table in better budgetary times. This includes deferral or elimination of funding for recently enacted legislation. The subcommittee may wish to consider deferral of funding for this legislation.

Staff Recommendation: DENY this proposal without prejudice toward the justification supplied by the SOS and notwithstanding the previous intent of the Legislature in passing SB 854. Encourage the SOS to address the requirements of SB 854 as best as is possible within existing resources and offer reconsideration of this proposal next year.

Action: Approved the staff recommendation on a 2-0 vote.

4. BCP-3: Archival Planning and Record Management. The SOS requests 1.0 position and $92,000 GF to acquire, manage, and preserve California Supreme and Appellate Court records.

Staff Comments: The SOS indicates that the courts have recently begun releasing case files to the State Archives in an unprecedented volume, and large amounts of records are anticipated to be sent to the Archives continuing into the immediate future. According to the SOS, without additional staff to develop and maintain a plan for the Court Records Program, some vital court records may be destroyed and many others will not be available to the public because a backlog of records will develop.

Staff notes that the rationale for this request is legitimate insofar as many court records are important documents that should be preserved and made accessible to the public—be they other courts, law firms, government staff, or individual citizens. However, in view of the current fiscal crisis, using GF to provide access to historical documents does not rise to the same level of priority as supplying basic services to the citizenry of California. Notwithstanding the need for the Archives to develop a plan for the Court Records Program to rationalize the retention of court records, staff recommends denying this proposal. Staff notes that this action would delay access to certain court records.

Staff recommendation: DENY the proposal without prejudice and instruct the SOS to work with the courts to temporarily suspend or slow the transmission of court files during the fiscal crisis in order to enable the SOS to develop a long-term court records plan and continue to meet the current workload within existing resources. The Subcommittee may wish to offer reconsideration of this proposal under an improved fiscal outlook in a future budget.

Action: Approved the staff recommendation on a 2-0 vote.

5. BBR: Unallocated General Fund Reduction. The Governor proposes a $3.5 million unallocated reduction to the SOS's GF budget.

Staff Comments: According to information recently provided to staff, the SOS would take its portion of the Governor's proposed 10-percent, across-the-board reduction in the following manner:

> *After a thorough and exhaustive review of expenditures, the SOS will reduce costs associated with the printing and mailing of the Voter Information Guide (VIG). These changes will result in a reduction to expenditures without significantly adversely affecting program related functions and activities. The cost of producing the VIG is a significant expenditure borne by the General Fund, which with at least one statewide election in every fiscal year, equates to a substantial ongoing commitment of funds.*

Changes to the VIG will include:

- *Leaving the pullout guide in place but eliminating the perforation and special gluing associated with the current guide;*
- *Printing using only black ink;*
- *Using lighter weight newsprint;*
- *Reducing the overall dimensions of the guide; and*
- *Eliminating duplicate mailings to households (statutory change necessary).*

Based on prior expenditures, estimates and quotes, the SOS estimates it can save approximately $3.5 million by implementing these changes.

Staff notes that approximately 97 percent of the GF received by the SOS goes to funding election and archival activities, with the remaining 3 percent ($1 million) supporting other activities such as the confidential mail-forwarding program called Safe at Home that helps Californians escape abusive partners.

Staff Recommendation: APPROVE the reduction.

Action: Approved the staff recommendation on a 2-0 vote.

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security.

The Governor's Budget begins by funding 4,084.4 positions (a net increase of 127.6 positions relative to adjusted current year totals) and budget expenditures of $1.2 billion (including $7.9 million General Fund) for the department, but then includes a 10 percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $794,000, to be taken from State Capitol maintenance and repairs program (see Vote-Only Item #1).

DISCUSSION ITEMS:

1. BCP-1: School Facilities Program (SFP)—Fiscal Services Staffing. The DGS requests 7.0 positions and $740,000 (School Facilities Fund) for the Office of Public School Construction (OPSC) to address SFP audits, and to establish an automated and integrated audit information system.

Staff Comments: Under the direction of the State Allocation Board (SAB), the OPSC administers the functions of various school facilities and building acts (most recently, the Leroy F. Greene School Facilities Act of 1998) through which school districts establish eligibility for funding from statewide bond measures for school facility construction. The SAB approves and apportions funds for projects of eligible schools districts which are certified by the OPSC as compliant with applicable statutory prerequisites.

Over the past ten years, the voters have passed four statewide bonds that provided funding for school facilities. The following table displays funds authorized for each bond along with the amounts awarded and disbursed as of January 31, 2008:

Bond	**Authorized Funds***	**Awarded to Date***	**Disbursed to Date***
Prop 1D (2006)	$7,350,000	$636,233	$360,180
Prop 55 (2004)	$10,015,500	$8,882,687	$6,467,701
Prop 47 (2002)	$11,400,000	$10,878,052	$9,662,379
Prop 1A (1998)	$6,700,000	$6,642,247	$6,641,829
TOTAL	$35,465,500	$27,039,219	$23,132,089

(*dollars in thousands)

As reflected in the table above, the OPSC has already disbursed over $23 billion in school facilities and will send billions more "out the door" in the coming years. With these many billions of dollars invested in school facilities projects, the OPSC is also tasked with responsibility to audit the recipient projects (per Title 2 California Code of Regulations Section 1859.106) to ensure that the bond funds are expended in accordance with the law. Due to the fact that it can take more than nine years for a project to go from application to apportionment, from funding to expenditure, and finally from the beginning to the end of the audit process (project closeout), some of the Prop 1A, many Prop 47, most Prop 55, and no Prop 1D projects have been closed out. The following table provides a snapshot of where the OPSC estimates each of the school facilities bonds is in terms of the progression from fund apportionment to final closeout:

	Prop 1A (1998)	**Prop 47 (2002)**	**Prop 55 (2004)**	**Prop 1D (2006)**
Duration of Bond Fund Apportionments	11/1998 to 10/2002	11/2002 to 12/2006	03/2004 to 08/2008*	12/2006 to 03/2010*
# of Projects Not Yet Apportioned* ($ Amount)	0	24 ($0.1 billion)	454 ($2.1 billion)	2,400 ($7.0 billion)
# of Projects Apportioned, But Not Closed ($ Amount)	363 ($2.3 billion)	2,297 ($9.0 billion)	2,207 ($7.7 billion)	210 ($0.3 billion)
# of Projects Closed ($ Amount)	2,088 ($3.9 billion)	1,297 ($2.3 billion)	78 ($0.1 billion)	0
Closeout Period*	4/2000 to 3/2011	5/2003 to 5/2015	10/2005 to 01/2017	05/2008 to 8/2018

(*estimated)

As reflected in the table above, although the OPSC has disbursed over 65 percent of the approved bond funds, the bulk of the audit and closeout workload will hit in the next ten years. For example, the OPSC indicates that its current audit workload 1,400 projects worth $7 billion is anticipated to grow in FY 2008-09 to 2,000 audits—a 43 percent increase. In the long-term, over the next eight years, the OPSC projects that the audit workload will swell to approximately 8,000 projects, more than doubling the total of 3,400 from the previous eight years.

Staff notes that the request for 7.0 additional auditor positions to augment the existing 35.0 positions in the Auditing Services Section of the OPSC appears reasonable within the above context. However, the subcommittee may wish to question the OPSC regarding plans it is undertaking to more effectively target audits using risk-based assessment of projects. Since 2000, the OPSC Fiscal Services staff have recovered nearly half a billion dollars from school districts that have not complied with the various laws and regulations that govern the SFP, but this has been accomplished treating each project audit more or less equally. If the OPSC is able to develop risk-based criteria and better prioritize staff time, the SFP audit program is liable to recover more dollars, or, at a minimum, better ensure that bond awards are being spent appropriately.

Additionally, the subcommittee may wish to inquire regarding the OPSC's plans to automate and integrate its existing audit information system. This effort is largely motivated by the need to meet the requirements of the Governor's *Executive Order S-02-07* which sets forth the Administration's plan to audit all 2006 General Obligation Bond expenditures and make the audit findings available to the public via the internet.

However, staff notes that there may be opportunities for the OPSC to develop its audit information system in such a way as to allow better tracking of how bond dollars are actually spent and the tangible results they produce at school sites. This information might better inform policy makers in deciding when to initiate and how to size the next education bond.

Staff notes that the Senate Budget Subcommittee #1 (on Education) may wish to make comment on this proposal.

Staff Recommendation: HOLD OPEN, pending comment/input from the budget subcommittee on education.

Action: Held open, pending comment/input from the budget subcommittee on education.

2. BCP-2: Williams Settlement-Program Services Staffing for the Emergency Repair Program (ERP). The DGS requests 2.0 positions and $217,000 GF to process, review, and approve in a timely manner emergency repair requests from school districts seeking funding under the Williams Settlement.

Staff Comments: In August 2004, the state settled out of court with the plaintiffs of the *Williams v. California* lawsuit, which concerned K-12 education instructional materials, teacher qualifications, and facilities. The settlement applied primarily to schools that scored in deciles one through three of the 2003 Academic Performance Index (API), and the facilities portion of the settlement required schools to ensure facilities are clean, safe, and maintained in good repair.

Chapter 899, Statutes of 2004 (SB 6, Alpert), as part of the legislative package implementing the Williams Settlement, created the ERP and established a procedure whereby districts could apply to the state for supplemental funding to address emergency facility needs (for schools in deciles one through 3). The ERP was originally implemented as a reimbursement program in which eligible school districts were required to complete and make payment for the repair or replacements costs prior to submitting a request for funding. However, Chapter 704, Statutes of 2006 (AB 607, Goldberg) changed the ERP to a grant program. Whereas the original reimbursement program design made ERP funds difficult for many districts to access, the switch to a grant model has increased demand for the funds significantly.

Given the increased access to ERP funds via the grant program, the OPSC estimates that each of the 2,230 schools that were eligible for the ERP as of July 1, 2007, will file 2.5 ERP applications over the course of the next three years, resulting in 5,125 ERP applications over that time period, or 1,708 applications annually. Although, according to the OPSC, this projected workload would ordinarily justify 8.0 positions, the OPSC conservatively requests 2.0 positions to address increased ERP applications. The OPSC notes that there are currently approximately 1,400 ERP applications on its workload list and that the average processing time per application is approximately 160 days (well above the OPSCs goal of 90 to 120 days).

Staff Recommendation: HOLD OPEN, pending comment/input from the budget subcommittee on education.

Action: Held open, pending comment/input from the budget subcommittee on education.

3. TBL: Shift Emergency Repair Program Audit Responsibilities to Counties. The Administration proposes Budget Trailer Bill Language (TBL) to require a county superintendent or his or her designee to conduct financial and compliance audits of schools districts within his or her county that obtained ERP funds.

Staff Comments: The subcommittee may wish the Administration to explain why this proposal would not result in a state mandate, and to clarify how the state would maintain accountability from the counties in their audit efforts.

Staff Recommendation: HOLD OPEN, pending comment/input from the budget subcommittee on education.

Action: Held open, pending comment/input from the budget subcommittee on education. The Chair requested the Administration keep staff informed of updates to TBL, specifically, those addressing mandates and county accountability.

4. BCP-4: Asset Enhancement and Surplus Property Sales-External Consultant Services. The DGS requests $500,000 (special fund) to continue value enhancement of surplus state property that is located at the Lanterman Developmental Center in Pomona and at the Los Angeles Civic Center (former First and Broadway State Office Building).

Staff Comments: The Legislature approved $500,000 (special funds) for value enhancement at the Lanterman and the Los Angeles Civic Center sites in the current year, and the Governor's Budget proposes additional resources to continue these activities. However, according to DGS staff, there have been delays to the activities funded in 2007-08, and the department now believes the following resources would be needed in 2008-09:

1. **Lanterman** – Due to delays, the DGS does not anticipate spending any of the $500,000 appropriation in the current year. Instead, the department proposes to push out the project study one year, and requests that the Legislature reappropriate the FY 2007-08 funding for FY 2008-09. In addition, due to a change in the scope of the study, the DGS anticipates spending no more than $300,000.
2. **Los Angeles Civic Center** – Due to delays, the DGS does not anticipate spending any of the $500,000 appropriation in the current year. Instead, the department proposes to push out all project phases one year, and requests that the Legislature reappropriate the FY 2007-08 funding for FY 2008-09.

As discussed last year, enhancing these properties could increase their value by millions of dollars and generate a high rate of return on the state's enhancement investment.

Staff Recommendation: DENY the original request for additional funding contained in the 2008-09 Governor's Budget, but APPROVE reappropriation of $800,000 (out of $1,000,000) in existing funding. (Staff will develop reappropriation language in cooperation with DGS, DOF, and LAO.)

Action: Approved the staff recommendation on a 2-0 vote.

5. BCP-8: Real Estate Leasing and Space Planning Workload. The DGS requests 19.0 permanent and 4.0 limited-term positions and $1.9 million (Service Revolving Fund) in order to address a backlog of leasing and planning workload.

Staff Comment: The Real Estate Leasing and Planning Section (RELPS) of the DGS' Real Estate Services Division's Professional Services Branch currently has 81.9 staff and an operating budget of $11.6 million. According to the DGS, the RELPS is currently experiencing a backlog of 1,486 hours (or 49.2 weeks) per staff person for leasing projects and 2,573 (or 85.22 weeks) per person for space planning projects. The stated goal of this request is to reduce the backlog to an "acceptable" level of 906 hours (or 30 weeks) per staff person for leasing and planning.

The DGS indicates that the current backlog developed due to several factors including the following: (1) a recent spike in "unanticipated" workload such as the creation of the Department of Technology Services, the reorganization of the Department of Health Services, the downsizing of the Employment Development Department, the response to urgent mandates by the Department of Corrections, and the Governor's Green Building Action Plan; (2) increased work complexity due to very stringent requirements that buildings must meet in order to be suitable for occupancy by state agencies (for example, the construction and performance specifications in a standard state lease have grown from a 28-page to a 76-page document in just the last four years); and (3) the loss of experienced staff (for example, the percentage of leasing staff and planning staff with less than five years of experience doubled between 2003/04 and 2006/07—from 19 to 38 percent and 12 to 33 percent, respectively).

According to the DGS, the delay in processing the RELPS workload results in real financial consequences to the state. For example, the state occupies a relatively stronger bargaining position when renewing a lease if the negotiations with the landlord are initiated 6 to 8 months in advance of the expiration instead of afterward. The difference in price may only be on the order of $0.15 to $0.25 per square foot, but because the DGS manages 1,861 leases or about 18.9 million square feet, the potential savings (realized or lost) runs into the millions of dollar, per year.

While this BCP provides compelling evidence that the RELPS probably needs additional resources to address increased workload and work down the current backlog, staff notes that the DGS' assumptions for out-year workload may be overstated. For example, the workload projections are based only on the past three years and do not include previous years in which the state faced fiscal crisis—2002/03 or 2003/04. While the DGS maintains that tight fiscal constraints can actually generate additional RELPS workload by encouraging departments to reorganize or consolidate office space and/or leases, staff notes that data supplied as part of this request indicate that past workload has fluctuated significantly. For example, the RELPS was able to work down approximately 25,000 hours of backlog in 2003/04 during poor fiscal times.

The subcommittee may wish to consider reducing this request unless the DGS can provide additional documentation to support its contention that the current fiscal crisis is not likely to affect projected workload. Additionally, the subcommittee may wish the DGS to discuss the steps it has taken to address succession planning in the RELPS.

Staff Recommendation: HOLD OPEN to allow staff more time to consult with the DGS on this proposal.

Action: Denied on a 2-0 vote, but offered the potential for reconsideration if the Administration is able to show that the request would directly impact health and safety, and/or generate off-setting savings.

6. BCP-9: State-Owned Space Planning Workload. The DGS requests 7.0 positions and $614,000 (Service Revolving Fund) in order to address a backlog of space planning projects within state-owned facilities.

Staff Comment: This request is similar in several ways to the RELPS workload request above (Item #5). The DGS indicates that the Studio 1, State Owned Planning Unit has received several "unanticipated" large scale and high priority projects at a time when the complexity of the work has increased due to several factors, including the Governor's Executive Order on Green Building, increased scrutiny of and departmental liability for accessible features for persons with disabilities, and extensive security, safety, and access control improvements in the wake of 9/11. According to the DGS, the quantity and area of buildings served by the unit has also increased steadily in the recent past, with Studio 1 providing services statewide in 59 DGS-owned and DGS partial-services buildings totaling over 16 million square feet. As a result, each planner/architect is currently assigned 1.74 million square feet of building area, over double the industry suggested standard of 750,000 square feet. If this request is approved, and three more buildings currently under renovation are added to the DGS portfolio, the DGS projects that the service area per planner/architect would be reduced to 1.2 million square feet by FY 2010-11 (it would be lower in the interim).

Although the DGS makes the case that space planning workload has increased, the department should be prepared to justify the proposed expenditure by demonstrating that the benefit/savings/cost avoidance generated by the additional positions would offset their cost.

Staff Recommendation: HOLD OPEN.

Action: Denied on a 2-0 vote, but offered the potential for reconsideration if the Administration is able to show that the request would directly impact health and safety, and/or generate off-setting savings.

7. BCP-11: Client Radio Replacement Program. The DGS requests 22.0 positions and $3.2 million (Service Revolving Fund) for implementation of public safety communications in accordance with a BCP in the 2008-09 Caltrans budget.

Staff Comments: This program was originally approved as a Spring Finance Letter during the 2007-08 budget process. All costs associated with the DGS portion of this project will be recovered through billing to Caltrans. Therefore the subcommittee's action on this request should conform to its action on the corresponding Caltrans request.

Staff Recommendation: CLOSE the item recognizing that it will conform to the action taken in the Caltrans budget.

Action: Approved the staff recommendation on a 2-0 vote. The Chair requested the DGS to return at a later hearing on Caltrans to further discuss the department's role in promoting radio interoperability.

8. BCP-12: AB 900 Bond Accounting Workload. The DGS requests 5.0 positions and $464,000 (Service Revolving Fund) to address increased bond accounting workload resulting from the $7 billion in new State Public Works Board revenue bonds authorized under Chapter 7, Statutes of 2007 (AB 900) for the Department of Corrections and Rehabilitation Prison Bed Construction Project.

Staff Comment: As yet, no AB 900 projects have been approved, so the workload supporting this request is speculative. Although bond accounting workload will undoubtedly emerge eventually (since the state must build new prison capacity), the subcommittee may wish to hold this item open to allow the workload "picture" to become clearer in the event any projects are approved before the end of the budget subcommittee process. Additionally, the subcommittee will want the Administration to demonstrate that the CDCR and the DGS are coordinating their efforts with regard to AB 900 implementation.

Staff Recommendation: HOLD OPEN.

Action: Held open.

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

Staff Comment: According to the DGS, the positions requested are justified by increased workload due to the following:

- Chapter 558, Statutes of 2005 (SB 954)—As of January 1, 2007, the DGS was required to review multi-million dollar requests for proposals for information technology projects prior to their release to the public.
- Strike Team Overseeing Prison Expansion—An OLS staff was assigned to a team assisting to the Department of Corrections (CDCR) on prison facilities expansion.

- FI$Cal—OLS staff are providing assistance to the Department of Finance with respect to information technology on the proposed financial management information system.
- Green Technology—OLS staff attend meetings and provide advice to the Green Action Team created by the Governor under *Executive Order S-20-04*.

As noted in Item #8 (above), the state has yet to move forward in approving any projects as part of the planned prison expansion. Therefore, the workload associated with the position requested for the Governor's CDCR Strike Team is speculative. Similar to the staff recommendation for Item #8, the subcommittee may wish to hold this item open to allow the workload "picture" to become clearer in the event any projects are approved before the end of the budget subcommittee process.

Staff Recommendation: HOLD OPEN.

Action: Held open.

10. BCP-13: Architecture Revolving Fund (ARF) Deficit. The Administration has notified the Legislature via this BCP that there is a $14.7 million deficit within the DGS' ARF. The DGS proposes a multi-faceted plan to resolve the ARF deficit, but the plan is still under discussion within the Administration and could result in a Spring Finance Letter, DOF Budget Letter or Budget Bill Language.

Staff Comment: The ARF is a depository for moneys appropriated for new construction, major construction and equipment, minor construction, maintenance and equipment, and other building improvement projects. According to the DGS, the deficit condition has occurred in 11 of the past 12 years and is the result of several factors, including the following:

- **Construction Delays**—Delays have resulted in construction costs that, due to inflation, far exceed project estimates.
- **Budget Package Rates Set Too Far in Advance**—Hourly rates in budget packages are set five years in advance to accommodate the state budget process which means that they do not account for incremental changes in employee compensation, retirement adjustments, or escalation of construction costs.
- **Cancelled Projects**—On large projects the DGS receives a loan to cover initial project costs, but when a project is suddenly canceled the DGS is forced to absorb the now unfunded costs in the ARF.
- **Unfunded Projects**—The DGS is frequently requested to perform alteration and construction projects for the Administration's central service agencies which are unbudgeted and do not have fund sources.

The DGS reports that between 2002-03 and 2006-07, a total of 902 ARF projects closed in a deficit position.

The DGS has proposed a multi-pronged strategy to address the ARF deficit and staff recommends the subcommittee wait until the proposal is more fully formed before weighing its merits. In the meantime, however, the subcommittee may wish the Administration to explain how and why it has approved unbudgeted projects that have contributed to the ARF deficit. To the extent that the other factors listed above may be remedied by changes to the budgeting process, the approval of unfunded projects would appear to be a policy change that this Administration (and future Administrations) must be willing to make and abide by.

Staff Recommendation: HOLD OPEN.

Action: Held open. The Chair requested the DGS to provide (before the close of budget subcommittees): (1) the number of "unbudgeted/unfunded" projects; (2) assurances that the DGS has ceased the practice of ordering work on such projects; and (3) a plan going forward (either a final ARF deficit action plan, or the most up-to-date version of an unfinished plan).

11. TBL: Earthquake Safety Bond Act of 2008. The Governor proposes TBL to place a $300 million general obligation (GO) "earthquake safety" bond measure on the November 8, 2008 ballot. The bond proceeds would be used to fund state building or facility projects determined to be eligible for retrofitting, reconstruction, repair, replacement, relocation, or other seismic hazard abatement consistent with the process specified in the Earthquake Safety and Public Building Rehabilitation Bond Act of 1990.

Staff Comment: The decision to place another GO bond before the voters is a policy choice for the Legislature that should be taken up outside the budget process, consistent with past GO bond decisions. Staff notes that the Governor proposes to fund a number of "seismic safety" Capital Outlay BCPs (COBCPs) from proceeds of the proposed earthquake safety bond. These items appear in the "Vote-Only" portion of this agenda with a staff recommendation to deny them without prejudice until and unless a funding source can be identified.

Staff Recommendation: DENY the TBL.

Action: Approved the staff recommendation on a 2-0 vote.

VOTE-ONLY ITEMS:

Group A – "Seismic Safety" COBCPs Without an Existing Fund Source

1. COBCP: Renovation of H and J Buildings—Patton State Hospital. The DGS requests $42.9 million (from proposed Earthquake Safety Bond proceeds) to create intermediate "swing space" and begin seismic renovations of four buildings at the hospital. Due to growth in the hospital population at all state hospitals, the Department of Mental Health is unable to relocate the patients during construction.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

2. COBCP: Structural Retrofit—Sierra Conservation Center, Jamestown Facility. The DGS requests $1.7 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of Buildings E and F at the Jamestown Facility. The DGS has determined these structures to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

3. COBCP: Structural Retrofit—CIW Walker Clinic and Infirmary, Corona. The DGS requests $5.2 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of both the Walker Clinic and Infirmary at Department of Correction's California Institution for Women—Walker Clinic at Corona. The DGS has determined this structure to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

4. COBCP: Structural Retrofit—Vacaville Correctional Medical Facility, Wings U, T, and V. The DGS requests $3.4 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of the Vacaville Correctional Medical Facility, Wings U, T, and V. The DGS has determined these structures to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

5. COBCP: Structural Retrofit—California Correctional Center, Vocational Building F, Susanville. The DGS requests $6 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of the Vocational Building at the California Correctional Center in Susanville. The DGS has determined this structure to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

6. COBCP: Structural Retrofit—Department of Mental Health (DMH) Metropolitan State Hospital – Wards 206 and 208, Norwalk. The DGS requests $4.1 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of the DMH Metropolitan State Hospital – Wards 206 and 208, Norwalk. The DGS has determined these structures to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

7. COBCP: Structural Retrofit—CDC CCI Tehachapi Chapels Facility (Building H). The DGS requests $1.9 million (from proposed Earthquake Safety Bond proceeds) for seismic retrofit of the Chapels Facility (Building H) at the California Department of Corrections Tehachapi facility. The DGS has determined this structure to be seismically deficient.

Staff Comment: The Legislature provided funding in FY 2006-07 and in the current year to complete preliminary plans and working drawings for this project.

8. COBCP: Structural Retrofit—Hospital B-50 at Lanterman Developmental Center, Pomona. The DGS requests $1.8 million (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of Hospital B-50 at Lanterman Developmental Center. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $39.4 million over seven years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

8. COBCP: Structural Retrofit—Metropolitan State Hospital – Vocational Rehabilitation Building. The DGS requests $361,000 (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of Hospital B-50 at Lanterman Developmental Center. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $39.4 million over seven years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

9. COBCP: Structural Retrofit—Metropolitan State Hospital – Wards 313 and 315, Norwalk. The DGS requests $375,000 (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of Wards 313 and 315 at Metropolitan State Hospital. The DGS has determined these structures to be seismically deficient. Total project costs are expected to be $5.5 million over three and one-half years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

10. COBCP: Structural Retrofit—Sonoma Developmental Center – Multipurpose Complex. The DGS requests $306,000 (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of the Multipurpose Complex at Sonoma Developmental Center. The DGS has determined these structures to be seismically deficient. Total project costs are expected to be $4.0 million over two years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

11. COBCP: Structural Retrofit—Atascadero State Hospital – East West Corridor. The DGS requests $292,000 (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of the East West Corridor at Atascadero State Hospital. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $5.3 million over three years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

12. COBCP: Structural Retrofit—Metropolitan State Hospital – Volunteer Center. The DGS requests $166,000 (from proposed Earthquake Safety Bond proceeds) to develop preliminary plans for the seismic retrofit of the Volunteer Center at Metropolitan State Hospital. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $2.2 million over two and one-half years.

Staff Comments: Staff notes that working drawings and construction funds would need to be funded in future years.

STAFF RECOMMENDATION ON "GROUP A" VOTE-ONLY ITEMS: DENY Items 1-12 without prejudice toward the need to begin seismic renovations of these structures.

Action: Approved the staff recommendation on a 2-0 vote and acknowledged that the "2nd" Item #8 was duplicative of Item #8 in Group B (below) and was, therefore, not a part of the vote.

Group B – BBRs, BCPs & COBCPs

1. BBR: Capitol Maintenance and Repair. As part of his 10-percent, across-the-board GF reductions, the Governor proposes to reduce funding for State Capitol maintenance repairs by $794,000.

Staff Comment: This reduction would delay overall maintenance and repair projects, resulting in deferral of lower priority work. Staff notes that the Legislature approved a $1.2 million current year reduction to this program in the special session.

2. BCP-3: Infrastructure Studies for DGS-Owned Buildings. The DGS requests $230,000 (Service Revolving Fund) in additional, one-time funds to prepare infrastructure studies for older DGS-owned office buildings (the Hugh Burns State Office Building in Fresno and the Edmund G. "Pat" Brown Building in San Francisco) according to the schedule presented in the DGS' Five Year Capital Outlay and Infrastructure Plan.

3. BCP-5: Ronald Reagan Building—Custodian Staffing. The DGS requests blanket position authority for 14.0 positions to perform custodial work at the Ronald Reagan Building. Funding for these positions would be realigned from existing resources within the Building and Property Management Branch (BPM) of the DGS.

Staff Comment: The DGS indicates that prior to 2002 budget reductions, the BPM contracted out for custodial services; however, that contract was cancelled as a cost saving measure. Based on the DGS historical staffing standard for custodian positions, the building is currently significantly understaffed and the DGS indicates that not only have tenants voiced displeasure over the state of the building, but the inability to tend to detail cleaning is causing floor and wall finishes to begin to deteriorate before their useful life expectancy.

The DGS proposes to fund the requested positions out of existing resources within the recurring maintenance budget of the Building Rental Account. This will lead to a minimal but adverse impact on deferred maintenance and operations in the 28 buildings supported by the account.

4. BCP-6: New DGS-Owned Facility—Caltrans District 3, Marysville. The DGS requests 20.0 positions and $2.9 million (Service Revolving Fund) to manage and operate the new California Department of Transportation (Caltrans) District 3 Marysville office building.

Staff Comment: The new building is currently under construction, but is projected to be ready for occupancy in August 2008. Caltrans District 3 currently has a staff of 7.0 positions performing some operations and maintenance services for the existing facility and the department has requested that these personnel be transferred to the DGS as part of the agreement to provide operations and maintenance services to the new facility. (These staff are included in the 20.0 positions reflected above.)

5. BCP-7: Board of Equalization Building—Operations & Maintenance Staff. The DGS requests 14.0 positions and $808,000 (Service Revolving Fund) in BY+1 to adequately staff the operations and maintenance (O&M) of the Board of Equalization Building in Sacramento. The BY costs of this proposal would be funded through redirection of existing resources.

Staff Comment: The DGS provided custodial and engineering services at this building while it was under BOE ownership; however, now that the DGS has full responsibility for the building (the Legislature approved the transfer of ownership last year), inadequate staffing levels need to be corrected in order to maintain the highest and best use for the asset's full life. According to the DGS, the current level of O&M staffing is based on a short-term approach to managing the investment instead of the DGS' facility management practices for a long-term investment. Similar to the Ronald Reagan Building request above, much detail cleaning and carpet and hard floor care and maintenance are currently not being performed and a preventative maintenance backlog is developing.

6. COBCP: Library and Courts Building Renovation. The DGS requests reappropriation of $43.7 million (Service Revolving Fund) for construction costs associated with renovation of the Library and Courts Building in Sacramento.

Staff Comment: The DGS indicates the funds were originally appropriated in FY 2005-06, with provisional language requiring an approval to proceed to bid by June 30, 2008; however, when the original plan to phase construction around continuous occupancy of the building had to be scrapped, the project was delayed. The variation from the original project schedule is as follows:

	Original	**Current**	**Variance**
Commence Working Drawings	July 2006	June 2007	11 months
Bid Date	November 2007	February 2009	14 months
Completion Date	January 2010	October 2010	10 months

The DGS now requests a reappropriation to eliminate the risk of losing the availability of the construction funds in the event of further potential delays during working drawings development.

7. COBCP: Structural Retrofit—National Guard Armory, Stockton. The DGS requests $254,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990) for working drawings for the Stockton National Guard Armory. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $2.4 million over five years, with construction costs to be funded with proceeds from a proposed Earthquake Safety GO Bond.

Staff Comment: Staff notes that last year the Legislature approved funding of working drawings for a number of other structural retrofit projects using the same funding source (remaining Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990 fund balance). Consistent with those prior approvals, the Legislature may fund the development of working drawings and reserve the decision on how to fund the construction phase until a later date.

8. COBCP: Structural Retrofit—Metropolitan State Hospital – Vocational Rehabilitation Building. The DGS requests $361,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990) to develop preliminary plans for the seismic retrofit of the Vocational Rehabilitation Building at the Metropolitan State Hospital. The

DGS has determined this structure to be seismically deficient. Total project costs are expected to be $4.6 million over two years.

Staff Comments: Similar to the Item #8 above, this proposal is consistent with seismic retrofit requests approved last year. Staff notes that the DGS anticipates requesting working drawings and construction funding in FY 2009-10 and FY 2010-11, respectively.

9. COBCP: Structural Retrofit—Metropolitan State Hospital – Library. The DGS requests $334,000 (Earthquake Safety Public Buildings Rehabilitation Bond Fund of 1990) to develop preliminary plans for the seismic retrofit of the library building at the Metropolitan State Hospital. The DGS has determined this structure to be seismically deficient. Total project costs are expected to be $4.4 million over two years.

Staff Comments: Similar to the Item #8 above, this proposal is consistent with seismic retrofit requests approved last year. Staff notes that the DGS anticipates requesting working drawing and construction funding in FY 2009-10 and FY 2010-11, respectively.

STAFF RECOMMENDATION ON "GROUP B" VOTE-ONLY ITEMS: APPROVE Items 1-9 as budgeted.

Action: Approved the staff recommendation on a 2-0 vote.

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the reorganization and consolidation of the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. The DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

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

VOTE-ONLY ISSUES

1. BCP: Prior Year Project Expenditure Adjustments. The Administration requests to reduce the DTS' baseline budget to align appropriations with the ongoing costs of related projects. The proposed reductions decrease expenditures by $23.4 million in the budget year. The DTS is a fee-for-service organization and operates solely upon reimbursements. This BCP requests the funding authority needed to meet customer's needs and requirements.

2. BCP-1: Mainframe Central Processing Units Capacity. The Administration requests 4.0 positions and $4.3 million (DTS Revolving Fund) to purchase mainframe processing capacity in order to meet projected workload increases and upgrade software. The DTS anticipates a need for 1,040 additional Millions of Instructions Per Second (MIPS) for the seven CPUs in the budget year. This capacity growth need is primarily driven by population growth and the corresponding impact on departments' IT needs.

3. BCP-2: Midrange Server Capacity Augmentation and Refresh. The Administration requests 11.0 positions and $14.7 million (DTS Revolving Fund) to allow for the replacement of 60 UNIX and 183 Windows servers and purchase capacity to support 28 new UNIX servers and 105 new Windows servers. The DTS has identified an anticipated customer-driven workload and seeks to accommodate more than 450 customer entities with this more modern capacity.

Staff Comment: The Legislature approved a similar request last year that did not include positions because, at the time, the DTS had not developed a methodology to justify them. Staff notes that the DTS developed the staffing estimates for this BCP using the following guidelines:

- UNIX Servers—A server/administrator ratio of 11:1 per the Gartner Group. The DTS proposal would maintain a 20:1 ratio.
- Windows Servers—An industry standard server/administrator ratio of 35:1. The DTS proposal would provide a 32:1 ratio.

Staff notes that the ratios targeted by the DTS appear reasonable, but have not been exhaustively vetted by legislative staff. In recognizing that the DTS received no positions in support of the servers approved last year and approved this request in the budget year, the Legislature reserves the right to reevaluate the validity of the DTS server/administrator ratio in the future.

4. BCP-3: Network Workload Capacity. The DTS requests a $3.2 million (DTS Revolving Fund) to procure network optimization tools, upgrade circuits and switches to meet traffic density requirements, and replace routers and switches which have reached end of life. The funding would accommodate existing and projected increases in workload resulting from customer program growth and changes.

Staff Comment: According to DTS estimates, this request would address the department's bandwidth growth needs for the next three to five years.

5. BCP-4: Data Storage Capacity. The DTS requests 9.0 positions and $8.7 million (DTS Revolving Fund) to purchase disk storage, tape storage technology, and connectivity infrastructure for the capacity workload increase related to enterprise storage needs.

Staff Comment: Similar to the Midrange Server request (Item #3 above), the staffing estimates for this BCP are based on a Gartner industry benchmark of one staff position per 3-5 terabytes. The DTS indicates that the DOF has agreed that a ratio of one staff position per 8.4 terabytes is appropriate to provide the current level of service. As with the Midrange Server request, the Legislature reserves the right to reevaluate the validity of the DTS staff/storage capacity ratio in the future.

6. BCP-5: Customer Departmental Projects (New IT Projects). The DTS requests 5.0 positions and $5.0 million (DTS Revolving Fund) to address workload generated by customer new IT projects which have been approved by the DOF. This request includes 208 additional servers.

Staff Comment: The DTS has taken a different approach in the 2008-09 budget by differentiating between the service needs of existing projects (see Items 2-5 above) and new projects. This BCP reflects only the hardware, software, storage, and staff service needs generated by new projects.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE Items 1-6 as budgeted.

Action: Approved the staff recommendation on a 2-0 vote.

DISCUSSION ITEMS

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

Staff Comment: This request contained no quantified workload justification when it was transmitted to the Legislature. Staff only recently received a workload analysis which turned out to be incomplete. Therefore, staff is unable to make a recommendation at this time.

Staff Recommendation: HOLD OPEN, pending additional information from the Administration.

Action: Held open, pending additional information/clarification from the Administration.

2. BCP-7: Facilities Project Staffing. The DTS requests 1.0 position and $673,000 (DTS Revolving Fund) to establish a Facilities Project Office (FPO) to coordinate moves from leased facilities in Sacramento to a leased data center facility in the Central Valley and a leased office building in Rancho Cordova. The request consists of $554,000 one-time for consulting services and $119,000 ongoing for the position.

Staff Comment: The DTS currently occupies space in seven buildings, including two facilities that house its data centers—Gold Camp and the Cannery. Shortly after the merger of the Stephen P. Teale Data Center and the Health and Human Services Agency Data Center in July 2005, the DTS determined that the Gold Camp facility would be the department's main site or "hub" since it was a state-owned building and a state of the art data center. While most of the technical staff were located at Gold Camp, the Cannery site was inadequate to house all of DTS' remaining staff, and so they were placed in primarily leased space in other locations.

A July 2006 analysis conducted by the DTS determined that the Cannery data center had several infrastructure problems such as inadequate electrical and cooling systems and was located, along with another leased location containing raised-floor space, in the 100-year floodplain. As a result of the Cannery's vulnerability and the belief that it could save money on leases by consolidating its facilities, the DTS embarked on a multi-year plan to:

- Acquire a long-term lease for a data center in the Central Valley to house equipment that could not be housed at Gold Camp and to act as DTS' operational recovery site should the Gold Camp facility go down.
- Acquire 100,000 square feet of leased office space near the Gold Camp facility (Rancho Cordova) to house all non-technical and some technical staff.

The DTS has been working with the DGS on the above facilities plan for approximately two years and currently plans to begin operations at the Central Valley data center in December 2010 and occupy the Rancho Cordova facility in 2011. Although the precise costs are as yet unknown, the DTS estimates the move to these facilities is over $5 million and about $4 million, respectively. While the DTS expects to submit future budget requests for the costs associated with these moves, the department is requesting to establish an FPO to be responsible for overseeing, coordinating, and monitoring all of the activities associated with vacating four existing Sacramento leases and ensuring the operation of the new Central Valley facility.

Given the extensive work the DTS has conducted to develop the relocation and consolidation plan outlined above, it is unclear to staff why the department needs an additional position to continue activities associated with the plan (instead of redirecting the resource(s) currently engaged in locating a new facility toward coordinating the move).

Staff Recommendation: DENY the request.

Action: Approved the staff recommendation on a 2-0 vote, but offered reconsideration based on additional information from the Administration.

3. BCP-8: eServices Staffing. The DTS requests 3.0 two-year limited-term (LT) positions and $323,000 (DTS Revolving Fund) to permanently continue the functions of the Office of eServices (Office) which was previously established on a temporary basis in the State and Consumer Services Agency (SCSA).

Staff Comment: A state World Wide Web (Web) portal was first implemented in 2001, but due to severe budget constraints, a permanent business owner for the portal was never established. As a result, responsibility for the portal's hardware and software fell to the Stephen P. Teale Data Center (now part of the DTS), and all departments were required to pay a fee to support the annual ongoing costs of the portal (expenditure authority for this purpose is currently $3.6 million). However, without a single entity responsible for the development and standardization of policies and procedures for the portal, there was no consistency or guidance for the way in which departments updated their web site's "look and feel" (most had to rely on vendors), and no mechanism available for department webmasters to share ideas and web components or lessons learned. Essentially, each department had to "reinvent the wheel" on their own and without any outside training and support.

To address these problems, in August 2006, the state CIO and the SCSA created the Office to be a proof of concept to establish an organization that would be the business owner of the state portal. The Office was staffed by three state employees on loan from three different departments, and those staff set about improving and standardizing the portal. For example, the Office worked with the DTS to develop a new look and feel for the state portal and have worked with state departments since January 2007 to implement it (that same month, based on a survey of portal users, the DTS also replaced the old, inadequate search engine with a Google Search Appliance). While adoption of the new look and feel is still underway, the Office's loaned staff have been recalled by their home departments.

In requesting positions to continue the Office's work, the DTS indicates that a survey of 19 agencies who have converted to the new look and feel of the state portal has produced the following data:

- Only two agencies (or approximately 10 percent) now require vendor assistance to operate their website, compared to nearly 80 percent who required it in 2002. According to the Office, anecdotal evidence suggests that the average cost for an agency to hire a vendor was $200,000 , which means that, unadjusted for inflation, the conversion has generated an estimated $2.82 million in savings.
- In the last web conversion, 80 percent of 400 Uniform Resource Locators (URLs) required vendor assistance to convert at an average cost of $200,000 per website for an overall cost in excess of $60 million. This time, with the help of the Office, more than 80 percent of the departments did the conversion by themselves, and those that needed a vendor to do the coding spent under $100,000, for a savings of approximately $50 million (relative to the last web conversion).

Although the DTS believes the continuation of the Office on a permanent basis is justified, the department was not prepared to provide a long-term workload justification. Thus, the DTS is requesting LT positions until a thorough workload analysis can be performed. Staff notes that the DTS has already administratively established these positions in the current year.

Staff Recommendation: APPROVE the request.

Action: Denied on a 2-0 vote.

8620 Fair Political Practices Commission

The Fair Political Practices Commission has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974. The objectives of the Political Reform Act are to ensure that election campaign expenditure data is fully and accurately disclosed so that the voters may be fully informed, inhibit improper financial practices, and regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.

The Governor's Budget begins by funding 78.1 positions (the same as in the current year) and expenditures of $8.2 million GF, but then includes a 10 percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $825,000 (see the Discussion Item below).

DISCUSSION ITEM

BBR: Unallocated GF Reduction / FL: Partial Restoration of GF Reduction. The Governor proposes an $825,000 unallocated GF reduction to the FPPC's budget, but, through a Spring Finance Letter (FL), seeks to augment the FPPC budget by a total of $466,000 GF.

Staff Comment: This Item contains two separate, but related, GF issues. In the Governor's Budget, the Administration applied a 10-percent reduction to the FPPC's entire GF budget. However, the DOF subsequently released an FL acknowledging that the proposed 10-percent reduction was calculated including two statutory appropriations that were created by the voters through an initiative process related to the Political Reform Act (and therefore cannot be reduced without the voter's approval). Taken together, the Administration is still proposing a $359,000 reduction to the FPPC budget.

The FPPC indicates that it would attempt to take the $359,000 reduction in areas not originally mandated by the voters and which are not funded by statutory appropriations. These would include local enforcement responsibilities (added in 1984) and the telephone advice function (which is not specifically mandated). A staff reduction in the enforcement area would extend timeframes for disposition of cases and could result in some cases not being investigated due to lack of resources. Since the majority of cases filed impact local officials, the majority of the impact would be on local cases. The impact of reduced enforcement resources would be broader than the impact on any individual case. The enforcement actions also serve as a deterrent.

Staff notes that the FPPC plays a critical role as a political watchdog agency, helping to ensure that the public has confidence that the political process in California is free of improper influencing of public officials. Therefore, in setting its priorities, the subcommittee may wish to protect these functions and deny the Governor's proposed across-the-board cut (this would require no action on the FL). However, if the subcommittee wishes to save the $359,000 GF proposed by the Administration, it should approve both the BBR and the FL.

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

Action: Approved the staff recommendation on a 2-0 vote.

8640 Political Reform Act of 1974

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

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

DISCUSSION ITEM

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

Staff Comment: Staff notes that the Administration only recently provided staff with the following detail on how the reduction would be allocated:

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

However, the Administration has yet to provide any detail regarding the impact these reductions would have.

Staff Recommendation: HOLD OPEN.

Action: Held open. The Chair instructed the Administration to provide more detail to staff concerning the proposed reductions and their likely impact on programs.

8855 Bureau of State Audits

The Bureau of State Audits (BSA) promotes the efficient and effective management of public funds and programs by providing independent, objective, accurate, and timely evaluations of state and local governmental activities to citizens and government. By performing financial, compliance, and performance audits, conducting investigations and other special studies, the State Auditor provides the Legislature, the Governor, and the citizens of the state with objective information about the state's financial condition and the performance of the state's many agencies and programs

The Governor's Budget begins by funding 161.0 positions (a net increase of 6.0 positions over adjusted current year totals) and expenditures of $17.5 million GF, but then includes a 10-percent, across-the-board, unallocated General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $1.6 million (see the Discussion Item below).

DISCUSSION ITEM

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

Staff Comment: On the eve of the release of the Governor's Budget, the State Auditor learned of the Administration's plan to reduce the BSA's budget and sent a letter to the Director of DOF to remind him of a Memorandum of Understanding (MOU). Signed in 1994, by the BSA and the DOF, the MOU directly quotes Government Code Section 8543 (part of the BSA's implementing legislation), which reads in part:

> *In order to be free of organizational impairments to independence, the bureau shall be independent of the executive branch and legislative control.*

The MOU also recognizes another code section that provides that the BSA be "free from influence of existing control agencies that could be the subject of audits." In short, the State Auditor asserts that only the Legislature may order changes to the BSA's budget.
Subsequently, the DOF released an FL on March 10, 2008, proposing a reversal of the $1.6 million reduction to the BSA budget, but asserting that the DOF still did not agree that the proposed across-the-board reduction in any way interfered with the status of the BSA.

In terms of its audit workload, the BSA's priorities are as follows:

- Highest priority is the performance of the Single Audit (financial statements and federal compliance audit) which is required in order for the state to continue receiving $76 billion in federal funds.
- Next, the BSA has other mandated audits, followed by investigations, and then discretionary audits requested by the Legislature through the Joint Legislative Audit Committee.
- Finally, the BSA conducts reviews on previously conducted audits to follow-up on auditees' progress in implementing the bureau's recommendations. Additionally, when resources are available the BSA has the authority to conduct

audits in areas that it has identified as high risk for the state. However, because the bureau has not had resources available, it has not conducted high risk audits, it has merely issued a high risk list as mandated.

In 2005, the BSA contracted out a portion of the federal compliance audit in response to high turnover and in order to continue responding to Legislative audit requests approved by the Joint Legislative Audit Committee. Since then, the bureau has continued to contract out that portion while trying to rebuild and grow the office. According to the BSA, a 10-percent reduction to its budget would mean that the bureau would continue to be unable to perform high risk audits, and would not be able to conduct follow-up reviews. Further, the bureau would need to conduct the full federal compliance audit and would not be able to contract out a portion. Thus, discretionary audits and follow-up reviews would suffer. A 10-percent cut would equate to six to seven fewer audits and follow-up reviews.

Given the important role the BSA's independent audit function plays in providing the Legislature, the Governor, and the citizens of the state with objective information about the state's financial condition and the performance of state agencies and programs, the subcommittee may wish to consider whether a GF reduction to the bureau's budget might wind up costing the state more money than it saves. Staff notes that if the subcommittee chooses to place a priority on funding the BSA and opts to delete the proposed reduction it may do so in two ways—either by approving both the Administration's BBR and the FL, or by simply denying the BBR outright. However, if the subcommittee believes the State Auditor's argument above is valid and wishes to assert its concurrence, it may wish to deny the BBR rather than approve the FL (which might be construed as tacit agreement with the DOF Director's assertion that the proposed reduction did not interfere with the BSA's independent status).

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

Action: Held open (as a courtesy to an absent Senator Dutton). The Chair indicated he was prepared to support the proposal to make no reduction to the BSA budget.

8910 Office of Administrative Law

The Office of Administrative Law (OAL) reviews administrative regulations proposed by over 200 state regulatory agencies, and assists those agencies through a formal training program, as well as through less formal methods, to understand and comply with the Administrative Procedures Act. Through its Reference Attorney service, the OAL also provides legal advice to state agencies and members of the public regarding California rule making law. The Governor's budget funds 20.9 positions and $2.9 million in General Fund (GF) expenditures, but proposes one Budget-Balancing Reduction (BBR) to achieve approximately $300,000 in savings (see below).

BBR: Regulatory Oversight. The Governor proposes a reduction of $293,000 GF to the OAL's Regulatory Oversight Program (the department's only program).

Staff Comments: The Administration indicates the proposed GF savings would be achieved by reducing spending on services, printing, communications, postage, repairs, maintenance of equipment, and purchase of new equipment. According to the BBR, the proposed reduction would limit the OAL's ability to provide training to departments whose staff would be promulgating rules on Chapter 488, Statutes of 2006 (AB 32—greenhouse gas legislation).

Staff notes that the OAL recently submitted a letter to the Chair (see Attachment B) claiming that much of the office's budget is not "actual" GF because $1.3 million is "reimbursed" through the Pro Rata or the Statewide Cost Allocation Plan (SWCAP) cost recovery program. Additionally, the OAL noted that $880,000 in annual expenditures is supported by revenues generated by licensing of the California Code of Regulations for publication. Instead of the Governor's $293,000 reduction, the OAL proposes to generate savings of $176,000 by eliminating travel and purchases of new equipment, reducing costs for messenger services by filing regulations with the Secretary of State four times weekly rather than five times, reducing to the extent possible service calls for on-site information technology assistance, and curtailing spending on office supplies, printing and telecommunications. According to the OAL, any further reductions to its Operating Expense and Equipment budget would jeopardize its fundamental ability to function and the performance of its core mission.

Other "GF," central services agencies that operate under the same cost recovery program as the OAL (for example, the Department of Finance) are subject to the same 10-percent, across-the-board reduction as that proposed for the OAL. Even if the subcommittee were to "hold harmless" the $880,000 the OAL generates in GF revenue, the office's share of a 10-percent reduction would still be $205,000.

Given the difference in the two messages coming from the Administration (the BBR and the OAL letter), the subcommittee will first want to get clarification on the amount of reduction the OAL would be able to absorb without adversely impacting the services it provides. Both the DOF and the OAL will need to support their respective proposals in light of the contentions of the other party. Additionally, the subcommittee may also want the LAO to weigh in since the Governor's full OAL reduction was included in the LAO's alternative budget proposal.

Staff Recommendation: APPROVE the reduction.

Action: Approved the staff recommendation on a 2-0 vote, but the Chair offered to continue to consider the OAL's case.

Control Section 11.00 EDP / Information Technology Reporting Requirements

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

Staff Comment: Staff is currently in discussions with the LAO, DOF, and OCIO regarding the potential need for a technical change to tighten up the reporting required under this CS.

Staff Recommendation: HOLD OPEN.

Action: Held open.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Dick Ackerman
Christine Kehoe

Hearing Outcomes

Monday, April 7, 2008
10:00 a.m.
Room 3191

Consultant: Brian Annis

Public Employment and Finance

Discussion Items

Department Budgets Proposed for Consent / Vote Only

(See consolidated vote-only action on page 7)

Public Employment

8385 California Citizens' Compensation Commission

The seven-member California Citizens' Compensation Commission meets annually and is responsible for setting the salaries and benefits for State Legislators, Governor, Attorney General, Lieutenant Governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, and Board of Equalization members. The Governor proposes expenditures of $14,000 (all General Fund) and no positions for the Commission – the same amount as 2007-08. The Commission meets annually and is staffed by the Department of Personnel Administration. The Commission budget funds travel expenses and stipends for the annual meeting – Commissioners do not receive a salary.

Control Sections:

Control Section 3.50 - Benefit Charges against Salaries and Wages: Control Section 3.50 of the budget bill specifies what benefit expenditures shall be charged against appropriations from which salaries and wages are paid. The language in this control section is identical to language approved with the 2007 Budget Act.

Control Section 4.01 - Employee Compensation Savings: Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for savings from the Alternative Retirement Program and any budget savings achieved through new collective bargaining agreements. Similar language was included in the 2007 Budget Act.

Control Section 4.11 - Establishing New Positions: Control Section 4.11 requires that new positions approved in the budget be established effective July 1, 2008, unless otherwise approved by the Department of Finance. Additionally, it requires the Controller to submit monthly reports to the Department of Finance that lists new positions approved in the budget that will be abolished pursuant to Government Code Section 12439. This control section was first added to the budget in the 2004 Budget Act. Staff understands this control section was added to reduce the practice of departments delaying the establishment of new positions and using the resulting savings for other purposes.

Control Section 4.20 - Contribution to Public Employees' Contingency Reserve Fund: Control Section 4.20 sets the employer's contribution to the Public Employees' Contingency Reserve Fund at 0.450 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. This rate is adjusted annually, as necessary, to maintain a three-month reserve in the fund. The 2007 Budget Act set the rate at 0.290 percent; however, the Administration indicates a rate of 0.450 is needed for 2008-09 to maintain the three-month reserve. The Control Section additionally allows the Director of Finance to adjust the rate, with a 30-day notification to the Legislature, as necessary to ensure a three-month reserve.

Control Section 11.11 - Privacy of Information on Pay Stubs: Control Section 11.00 requires that all departments distribute pay warrants and direct deposit advices to employees in a manner that ensures that personal and confidential information is protected from unauthorized access. Identical language was approved with the 2007 Budget Act.

Control Section 29.00 - Personnel-Year Estimates: Control Section 29.00 requires the Department of Finance to calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings must be published at the same time as the publication of: (a) the Governor's Budget; (b) the May Revision; and (c) the Final Change Book. Similar language was approved by the Legislature with the 2007 Budget Act.

Finance

9612 Enhanced Tobacco Settlement Asset-Backed Bonds

This budget item is a technical item that appropriates $1,000 General Fund to repay Enhanced Tobacco Settlement Asset-Backed Bonds if tobacco settlement revenues proved to be insufficient to make 2008-09 bond payments. Budget bill language allows the Director of Finance to increase this item to up to $200 million. While this authority was necessary to sell the Tobacco Settlement Revenue Backed Bonds, it is not anticipated that the General Fund will be required to make any payments. A similar item was approved by the Legislature with the 2007 Budget Act.

9620 Payment of Interest on General Fund Loans

This budget item provides for the payment of interest on loans to the General Fund for internal and external borrowing used to overcome normal cash flow imbalances during the fiscal year. Because receipts and disbursements occur unevenly throughout the fiscal year, the General Fund borrows funds which are then repaid within the same fiscal year. The external borrowing vehicle is known as Revenue Anticipation Notes. The Budget includes $267.8 million (General Fund) in 2008-09 for interest payments. A similar item was approved by the Legislature with the 2007 Budget Act.

9625 Interest Payments to the Federal Government

This budget item provides for the payment of interest to the federal government for federal funds held in State accounts. Under federal law, interest is sometimes required for the period between when federal funds are deposited in a state account and the disbursement of the funds for the program purpose. The Budget includes $30 million (General Fund) in 2008-09 for interest payments. A similar item was approved by the Legislature with the 2007 Budget Act.

9850 Augmentations for Contingencies or Emergencies (Loans)

This budget item provides for loans to state agencies. No loan can be made until 30 days after notification in writing to the Joint Legislative Budget Committee. A similar item was approved by the Legislature with the 2007 Budget Act.

Control Sections:

Control Section 1.80 – Availability of Appropriations: Control Section 1.80 of the budget bill specifies the period of availability for appropriations in the budget. Unless otherwise specified in the budget bill, items of appropriation are available only during the 2008-09 fiscal year, with the exception of capital outlay funds which have a longer period of availability. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 3.00 – Defines Purposes of Appropriations: Control Section 3.00 of the budget bill specifies the purposes and limitations of items of appropriation and schedules in the budget bill. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 8.50 – Federal Funds Receipts: Control Section 8.50 of the budget bill specifies the intent of the Legislature to maximize federal funds and requires Administration reporting to the Joint Legislative Budget Committee if federal funds fall below budgeted levels, as specified. Note, the procedure for receiving federal funds in excess of budgeted levels is specified in Control Section 28.00. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 8.51 – Federal Funds Accounts: Control Section 8.51 of the budget bill requires State agencies to identify to the Controller the account within the Federal Trust Fund against any appropriation made in the budget bill for federal funds. The language in this control section is identical to language approved with the 2007 Budget Act.

Control Section 8.52 – Federal Reimbursements: Control Section 8.52 of the budget bill authorizes the Director of Finance to reduce an item of appropriation upon receipt of in lieu federal funds for the same purpose. Reporting is required to the Joint Legislative

Budget Committee, and Control Section 28.00 is required if the federal funds are not used "in lieu" of an existing expenditure. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 8.53 – Notice of Federal Audits: Control Section 8.53 of the budget bill specifies notification to the Joint Legislative Budget Committee when a final federal audit or deferral letter is received. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 9.30 – Federal Levy of State Funds: Control Section 9.30 specifies appropriations to be charged in the event that federal courts issue writs of execution for the levy of State funds and such writs are executed. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 12.30 – Special Fund for Economic Uncertainties: Control Section 12.30 of the budget bill specifies the amount of General Fund revenue transferred to the Special Fund for Economic Uncertainties matches the amount identified in the Final Change Book for the 2008-09 fiscal year. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 26.00 – Intraschedule Transfers: Control Section 26.00 of the budget bill specifies the intent of the Legislature to provide flexibility for the administrative approval of intraschedule transfers within individual items of appropriation, and defines related reporting requirements to the Joint Legislative Budget Committee. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 33.00 – Item Veto Severability: Control Section 33.00 of the budget bill specifies that the Governor's veto of certain portions of the budget bill do not affect other portions of the bill. The language in this control section is similar to language approved with the 2007 Budget Act.

Control Section 35.60 – Budget Stabilization Act Transfer to the General Fund: Control Section 35.60 of the budget bill allows the Director of Finance to order the transfer of funds from the Budget Stabilization Account to the General Fund if necessary to maintain a prudent General Fund reserve. The language in this control section is similar to language approved with the 2007 Budget Act.

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

Staff Recommendation: Approve all the consent / vote-only budgets and Control Sections.

Action: Approved the vote-only calendar on a 2 – 0 vote, with Senator Kehoe absent during the vote.

Department Budgets Proposed for Discussion

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. The SPB provides a variety of recruitment, selection, classification, goal setting, training and consultation services to State departments and local agencies. The Board is composed of five members, who are appointed by the Governor, and serve 10-year terms.

The Governor proposes expenditures of $26.1 million ($5.0 million General Fund) and 183.6 positions – an increase of $2.4 million (a General Fund net decrease of $630,000) and an increase of 29.9 positions. Included in these numbers, is a proposed cut of $540,000 to help close the General Fund deficit. The non-General Fund expenditures of the Board are supported by reimbursements for services provided to other State departments.

The proposed budget includes $832,000 (reimbursements) and 8.5 positions to implement SPB's portion of the Financial Information System for California (FI$CAL) information technology project, which would be coordinated by the Department of Finance. Similarly, the Governor requests an augmentation of $116,000 (reimbursements) and a one-year limited-term temporary-help position for SPB's participation in the 21st Century human resources information technology project, which is coordinated by the State Controller's Office. Action on both items should be deferred at this hearing, and then made to conform to the action the Subcommittee takes on the FI$CAL and 21st Century projects when the Department of Finance and State Controller's Office are heard.

Issues Proposed for Discussion / Vote:

1. **Workload Related to Peace Officer Hiring (BCP #9, #10, and part of BCP #2).** The Board submitted 3 BCPs requesting $1.3 million (reimbursements) and 13.0 positions that are primarily driven by recent growth in the number of Officers at the California Department of Corrections and Rehabilitation (CDCR) and the California Highway Patrol (CHP). The SPB work is funded from reimbursements from the hiring departments, and if the workload is not at the predicted level or falls in the future, then the Board would not have sufficient resources to support all the positions and would have to leave some positions vacant. These BCPs do not increase any General Fund budgets, and rejection of these BCPs could slow the hiring of new CDCR Officers and CHP Officers. If the Legislative Analysts Parole realignment option is approved, or other action reduces the level of peace officer hiring, this workload related to these BCPs would fall. However, that would also decrease reimbursements and the SPB expenditures would automatically fall – the 2009-10 budget could be adjusted next year if warranted. The specific requests are as follows:

- BCP #9 increases reimbursement authority by $368,000 and adds 4.0 positions (1.0 Psychologist and 3.0 clerical positions) to administer psychological screening of peace officer applicants. The base level of staffing is 11.0 positions.
- BCP #10 increases reimbursement authority by $295,000 and adds 2.0 positions (1.0 medical officer and 1.0 clerical position) to respond to the increased fitness for duty evaluation workload. The base level of staffing is 2 positions. This workload is primarily related to peace officers, but a portion of workload is related to transportation workers and other classifications.
- Part of BCP#2 increases reimbursement authority by $654,000 and adds 7.0 positions (5 Associate Personnel Analysts and 2 Appeals Assistants) to respond to a projected increase of psychological and medical withhold appeals. The base level of staffing is 10 positions.

Staff Comment: The State has added 360 new CHP officers and attempted to fill more vacant CDCR positions in recent years, and the cost to add or fill these positions has already been incorporated into those departments' budgets, but the SPB budget has not been similarly adjusted to reflect its related reimbursable activities.

Staff Recommendation: Approve these requests.

Action: Held open the issue, and requested additional information from SPB to reconcile these positions with the Administration's peace officer proposals.

2. **Administrative Workload (BCP #6, and part of BCP #2).** The Board submitted 2 BCPs requesting $1.0 million (<u>reimbursements</u>) and 9.5 positions to address ongoing deficiencies in administrative staff.

- Part of BCP #2 increases reimbursement authority by $331,000 to fund 2 additional Administrative Law Judges positions to respond to Whistleblower Retaliation Complaints. The number of complaints has increased from an annual average of 20 in the 1990s to an annual average of about 60 since 2004.
- BCP #5 increases reimbursement authority by $679,000 to add 7.5 positions (5.0 analysts and 2.5 clerical positions) for workload related to business services, accounting, and human resources.

Staff Comment: Staff has reviewed this request for cost avoidance / cost savings and none seem likely in 2008-09. Given this difficult budget year, the Subcommittee may want to reject this BCP without prejudice to consideration of the request in a future year. SPB could either defer improvements to a future year or redirect existing staff as warranted. On the margin, rejection of this BCP would reduce costs for the State agencies who contract with SPB**.**

Staff Recommendation: Reject these requests.

Action: Rejected this request on a 2 – 0 vote with Senator Kehoe absent.

3. **Information Technology Positions (BCP #6).** The Governor requests a total of $234,000 (reimbursements) and 2.0 positions for information technology support. The positions assist in supporting a number of testing, information and management information technology applications. The Board indicates it used to have 18.9 information technology positions, but vacancy reductions and budget cuts earlier in this decade reduced the number to 13.0 positions today.

   Staff Comment: According to the Administration, this request will address an unmet demand for internet-based exams and scheduling systems. SPB currently has over 50 exams and scheduling systems currently on its website. Increasing internet exams and scheduling does increase efficiency in the hiring process and should reduce workload in affected state departments. The efficiency gains are not easily quantifiable, but there should be cost avoidance benefits over the long run.

   Staff Recommendation: Approve this request.

   Action: Approved this request on a 2 – 1 vote with Senator Ackerman voting no.

4. **Technical Training (BCP #8).** The Governor requests a total of $242,000 (reimbursements) and 3.0 positions (1.0 analyst and 2.0 clerical positions) for training and curriculum development services to be performed for State departments. The Board indicates workload in this area has grown due to the closure of the State Training Center.

   Staff Comment: According to the Administration, this is more of a cost shift than a new cost. The amount of training services requested by State departments is somewhat discretionary; therefore, if the demand is not realized, SPB will not receive reimbursements sufficient to fill these positions.

   Staff Recommendation: Approve this request.

   Action: Approved this request on a 2 – 1 vote with Senator Ackerman voting no.

5. **General Fund Budget Reductions (Governor's Budget).** The Governor proposes a budget reduction of $540,000 and elimination of 4.0 positions to help address the General Fund deficit. The Department indicates it would achieve this reduction by eliminating one of the administrative support positions that assist the Executive Office; one manager position overseeing merit appeals and one administrative support position processing merit appeals; one analyst position and $80,000 in contracting dollars from the Bilingual Services Program; and the Assistant Division Chief Position from the Administrative Services Division.

   Staff Comment: Given the severity of the General Fund budget problem, the Subcommittee may want to approve this request and allow the Administration to implement these reductions. In future years, the Administration may submit budget requests to restore some of these positions and funding to the extent the reductions significantly impact core activities.

   Staff Recommendation: Approve the request.

Action: Approved this request on a 3 – 0 vote.

DPA–Related Public Employment Issues (pages 11-18)

8380 Department of Personnel Administration

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

The Governor proposes expenditures of $106.6 million ($37.8 million General Fund) and 247 positions for DPA – an increase of $6.2 million and 21 positions. Two significant adjustments are a $1.9 million General Fund reduction (and position cut of 11.0 positions) to help address the General Fund deficit, and a $3.0 million General Fund augmentation (and the addition of 28.5 positions) to process layoffs that are part of the Governor's proposal (primarily in the Department of Corrections and Rehabilitation).

The proposed budget included $1.1 million (reimbursements) and 11.0 positions to implement DPA's portion of the Financial Information System for California (FI$CAL) information technology project, which would be coordinated by the Department of Finance. Similarly, the proposed budget includes $623,000 and 6.6 positions to implement DPA's portion of the 21st Century Project information technology project, which is coordinated by the State Controller's Office. Action on both items should be deferred at this hearing, and then made to conform to the action the Subcommittee takes on the FI$CAL and 21st Century Project when the Department of Finance and State Controller's Office is heard.

1. **Drug Testing Program (BCP #4).** The Governor requests $263,000 (reimbursements) to fund higher external laboratory testing costs for several drug testing programs. Some of the drug testing is required pursuant to federal laws (such as some transportation workers), and other testing is authorized by memorandum of understanding with bargaining units (such as Correctional Officers). The BCP indicates that currently about 13,000 employees are tested annually and that number has been growing by about 1,400 employees each year.

   Staff Comment: The State has added new peace officer and transportation workers in recent years, and the cost to add or fill these positions has already been incorporated into those departments' budgets, but the DPA budget has not been similarly adjusted to reflect its related reimbursable activities.

   Staff Recommendation: Approve this request.

   Action: Approved this request on a 3 – 0 vote.

2. Savings Plus Program – Contract Costs (BCPs #1, 2, & 3). The Governor requests a total of $1.2 million (special fund) to fund increased costs for the Third Party Administrator and consultants for the Savings Plus Program and the Alternative Retirement Program. Funding for these activities comes from State employees who participate in the programs – funds either come directly from monthly administrative fees, or reimbursements received from the programs' investment providers. Similar requests have been approved over the past several years. The specific BCP requests are as follows:

- BCP #1 increases deferred compensation by $512,000 and reimbursement authority by $332,000 for providing recordkeeping and trustee services to the State's 457 and 401(k) Defined Contribution Plans and the State's Alternative Retirement Program (ARP). The cost increase is due to participation growth in these plans.
- BCP #2 increases reimbursement authority by $100,000 to implement the Payout Selection phase of the State's Alternative Retirement Program (ARP). ARP was implemented in August 11, 2004 for new State hires, and allows employees to choose a payout option in month 47–49. The participants can either retain the funds in the ARP defined contribution plan or shift the funds to CalPERS to "buy" credit into CalPERS for their first two years of State service to improve their defined benefit plan payout.
- BCP #3 increases deferred compensation by $260,000 for external investment consulting services necessary to support the new investment portfolio structure. The Department indicates that the new portfolio structure will improve the return on participants' investments exceeding the cost of implementation.

Staff Comment: This request funds external costs for the Savings Plus and Alternative Retirement Program. This augmentation would be fully paid by the participants in the programs.

Staff Recommendation: Approve these requests.

Action: Approved these requests on a 3 – 0 vote.

3. **Projected State Layoffs (BCP #6).** The Governor requests a two-year limited-term augmentation of $3.0 million (General Fund) and 28.5 positions to address layoff workload that would occur if the Governor's Budget is adopted as proposed. DPA estimates layoffs could number 7,200 out of the total State workforce of 235,000. The majority of the layoffs in the Governor's plan would come from the California Department of Corrections and Rehabilitation (CDCR) where 5,854 positions are proposed for elimination.

   Staff Comment: This issue should be held open pending actions on other proposals – primarily the CDCR proposal.

   Staff Recommendation: Hold this issue open.

Action: Held open the issue, and requested additional information from DPA to reconcile these positions with 2003-04 layoff staffing. Additionally, held open to reconcile with actions in other areas that impact layoff staffing.

4. **General Fund Budget Reductions - Administrative (Governor's Budget).** The Governor requests budget reductions totaling $1.4 million and 10.5 positions in DPA's administrative areas to help close the General Fund deficit. The reductions are outlined by DPA division as follows:

   - Classification and Compensation Division – a reduction of $398,000 and 2.9 positions is requested. The Administration indicates the impact of this reduction may delay implementation of critical (health and safety) classification and compensation changes. This could result in the inability of departments to hire qualified staff and meet statutory requirements primarily in level-of-care agencies such as Developmental Services and Mental Health and public safety agencies such as CDCR. Staffing reductions may also delay the grievance process.
   - Labor Relations Division – a reduction of $239,000 and 1.9 positions is requested. The Administration indicates the impact of this reduction will be that the State will have less comprehensive data with which to compare compensation for state classifications with local agencies and private industry.
   - Legal Division – a reduction of $403,000 and 2.9 positions is requested. The Administration indicates the impact of this reduction will be that the Division's litigation options will be restricted due to decreased travel budgets. Travel activities include fact finding, interviewing witnesses, and attending hearings. DPA will require witnesses to travel to Sacramento. Existing attorneys will work longer hours and handle more cases.
   - Administrative Services Division – a reduction of $119,000 and 0.9 positions is requested. The Administration indicates the impact of this reduction will be reduced or eliminated services to the DPA internal and statewide programs.

- Benefits Program – a reduction of $226,000 and 1.9 positions is requested. The Administration indicates the impact of this reduction could be reduced efficiencies in providing statewide benefits administration.

Staff Comment: Given the severity of the General Fund budget problem, the Subcommittee may want to approve this request and allow the Administration to implement these reductions. In future years, the Administration may submit budget requests to restore some of these positions and funding to the extent the reductions significantly impact core activities.

Staff Recommendation: Approve these requests.

Action: Approved the request on a 3 – 0 vote.

5. **General Fund Budget Reductions - Rural Health Care Equity Program (Governor's Budget).** The Governor requests a reduction of $515,000 and approval of trailer bill language to reduce Rural Health Care Equity Program (Program) annual payments from $500 to $450 for each recipient. The Program provides subsidies for current and retired State employees who reside in a rural area not served by a health maintenance organization (HMO).

Staff Recommendation: Approve this request.

Action: Approve the request on a 3 – 0 vote.

Department of Personnel Administration / State Compensation Insurance Fund – Cross Cutting Issues.

Last year, the Subcommittee discussed the administration of the workers' compensation system for State employees and the roles of the Department of Personnel Administration (DPA), the State Compensation Insurance Fund (SCIF), and individual employing departments play in providing administration, support, and oversight for the program. As a result of the discussion, DPA issued a management memo to departments to restate their responsibilities for the Administration of workers' compensation, and the master agreement between DPA and SCIF was revised. Additionally, the Legislature selected a large department (Department of Transportation (Caltrans), to audit for its administration of the system. The Office of State Audits and Evaluation (OSAE) study should be complete at the end of April.

Issue proposed for Discussion:

1. **Cost of the Workers' Compensation for State Employees (Informational Issue).** The cost to the State for employees' workers' compensation is displayed in the below table, although actual budget authority is provided in the budgets of individual departments that reimburse SCIF as costs are incurred, and therefore both the General Fund and special funds are included in the costs. The table below shows the change in State workers' compensation costs from 2004-05 through SCIF estimates for 2008-09.

	2004-05	**2005-06**	**2006-07**	**2007-08***	**2008-09***
SCIF Admin Costs	$56.1	$60.7	$68.0	$72.0	$76.0
Cost of Benefits	$439.5	$398.3	$399.3	$406.0	$417.0
Total State Costs	**$495.6**	**$459.0**	**$467.4**	**$478.0**	**$493.0**
Total New Claims	25,546	26,095	25,164	24,500	24,620

* SCIF estimates

Staff Comment: As indicated above, the Office of State Audits and Evaluation workers' compensation audit of Caltrans should be completed in late April. That audit will provide insight into how one large State department is fulfilling its responsibility to administer the workers' compensation system. Staff also notes that the $4.0 million Administrative Cost increase actually breaks down to a $1.3 million reduction in external costs (bank charges, pro rata, etc.,) and a $5.3 million increase in SCIF administrative costs.

SCIF's workers' compensation case inventory is fairly unchanged year-over-year, but SCIF is adding about 20 positions, primarily to meet utilization revenue requirements outlined in Department of Industrial Relations regulations. Over time, staff has been added to SCIF to both address new regulatory requirements, and to bring caseload averages down.

The Subcommittee may want to hear from SCIF and DPA on the changes they have instituted over the past year to improve the administration and oversight of workers' compensation for State employees. Additionally, SCIF should be prepared to discuss staff growth and the impact of deferring staff growth in 2008-09 to reduce State costs.

Staff Recommendation. Hold open. Direct staff to review the audit report when it is complete and bring the findings back to the Subcommittee at a future hearing if warranted.

Action: Held open. Directed staff to bring back for further discussion, if warranted, after the release of the Caltrans workers' compensation audit.

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for those costs that exceed the baseline costs already included in individual department budgets. Generally, this item includes employee compensation funding based upon approved Memoranda of Understanding (MOU) with the State's 21 bargaining units and funding for health benefit inflation. Also included is compensation increases for excluded employees as is determined by the Department of Personnel Administration or other authorized entities. All bargaining units except Unit 5 (California Highway Patrol Officers) have expired contracts or contracts that will expire at the end of 2007-08.

The Governor's Budget proposed $646 million ($392 million General Fund) in Item 9800. Included in this amount is a funding request of $260.4 million General Fund for the Last, Best, and Final Offer of the Administration to the California Correctional Peace Officers Association (CCPOA), although no policy bill to implement that offer has been introduced to date. The LAO indicates that the *total* cost for State employees' salary is about $23 billion, with an additional $7 billion for benefits and other related costs (including universities for both cost measures). The General Fund supports more than one-half of this total.

Discussion / Vote Issues:

1. **9800 Assumptions:** The following estimates of major costs are included in the budget requests:
   - Unit 6 CCPOA – assumes implementation of the Last, Best, and Final Offer and budgets $260 million General Fund in 2007-08 and $260 million General Fund in 2008-09.
   - Unit 5 (CHP Officer) and Unit 9 (Engineers) – includes $9 million General Fund and $198 million special fund for existing contractual pay increases for these two units (the Unit 9 contract expires July 2, but includes a July 1 pay increase).
   - Plata, Coleman, and Perez Lawsuit / Non-Corrections Medical Professions – includes a total of $44 General Funds for cost growth in 2008-09 related to lawsuits brought against the state for prison medical care. These pay adjustments are not mandated by the lawsuits, but have been implemented for pay equity and recruitment / retention issues.
   - Health, Dental and Vision Inflation – includes $32 million General Fund and $43 million other funds.
   - Other Multi-year Salary Agreements / and Excluded Pay – includes funding for multi-year implementation of Game Warden salary increases and augmentations for other multi-year agreements, and excluded employees (a total of about $46 million General Fund and $12 million other funds).

   LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends two budget changes: (1) reject funding of $260 million (General Fund) for the CCPOA Last, Best, and Final Offer because the current pay appears sufficient to meet staffing needs, and (2) reject $550,000 (General Fund) for a new pay differential for information technology employees working on the Human

Resources Management System (HRMS) project because the Administration does not have a comprehensive plan for when and how to apply this differential in the future to other enterprise projects. The LAO also has recommendations related to future bargaining agreements, which would be only informational for this committee, because bargaining agreements are approved through the policy committees.

Staff Comment: For consistency, the Subcommittee may want to move the funding for CCPOA out of this item, with the intent that funding would be included in a policy bill that implements a future MOU. When the budget was developed, the Administration may have anticipated enactment of a policy bill to implement their Last, Best, and Final Offer, but no policy bill has been introduced to date. Since the timeline for a CCPOA MOU now seems consistent with the timeline for other bargaining units with expired or expiring MOUs, it may make more sense, and be more in keeping with standard budget procedure, to remove this funding from the budget.

Staff Recommendation: Hold open because there are typically May Revision adjustments to this item.

Action: Held open, except rejected the $550,000 ($331,000 General Fund) budgeted for a new pay differential for information technology employees working on the Human Resources Management System.

1920 State Teachers' Retirement System

The State Teachers' Retirement System (STRS) administers retirement and health benefits for more than 800,000 active and retired educators in the public schools from kindergarten through the community college system. Unlike public employees covered under the California Public Employees' Retirement System (PERS), STRS members do not participate in the social security system. According to the most-recent actuarial analysis, STRS is about 87 percent funded for estimated long-term obligations (relative to a 86 percent funded level last year) , leaving an unfunded liability of $19.6 billion. The LAO indicates that this funding level is above average among large public pension systems – with the average U.S. pension system about 85 percent funded.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the STRS Board with authority over the administration of the retirement system. However, the STRS operations budget is still a Budget Act appropriation which the Legislature adopts. The STRS Board adopted a 2008-09 budget that anticipates benefit and administrative expenditures of $8.8 billion (and 846.8 positions) – up $659 million (and 67.1 positions) from 2007-08. Administration, including services to members and employers, is up about $43.8 million (to $178 million), and benefit costs are up about $616 million (to $8.7 billion). In the 6300 Budget Item, the Governor is proposing $1.120 billion (General Fund) in State contributions to STRS – down from the $1.623 billion provided in 2007-08. However, the year-over-year change is primarily driven by a one-time legal decision that is further discussed below.

<u>The State funds teachers' retirement based on two statutory formulas:</u>

- Benefits Funding – the State's contribution is statutorily based on 2.017 percent of the teachers' salaries. The 2008-09 cost is budgeted at $536 million General Fund.
- Supplemental Benefit Maintenance Account (SBMA) – The State's contribution is fixed by statute at 2.5 percent of teachers' salaries and is intended to provide retiree purchasing power protection. The 2008-09 payment as dictated by statute is $664 million. While the budget reflects this amount, there are two Administration proposals that produce a net-zero change in the SBMA payment: (1) the Administration is proposing statutory changes to vest purchasing power protection at 80 percent of initial retirement level (for a savings of $80 million); and (2) the Administration is proposing to pay $80 million in interest payments (out of about $210 million in interest due) from litigation the State lost related to a 2003-04 budget action. Both of these are further discussed below.

<u>The State lost its appeal on STRS SBMA lawsuit:</u>

In 2007, the State lost its appeal to a case brought by STRS over a 2003-04 budget action that reduced that year's SBMA payment by $500 million. In September 2007, the State paid the $500 million in principle to STRS. Interest due is about $210 million, but the judgment did not specify an interest payment due date and the Administration is only proposing to pay $80 million of the $210 million in 2008-09.

Issues for Discussion and Vote:

1. **Purchasing-Power-Protection Vesting & Related Savings (Governor's Budget Trailer Bill).** The proposed budget reduces the Supplemental Benefit Maintenance Account (SBMA) State contribution from 2.5 percent of salary to 2.2 percent – for an annual estimated savings of about $80 million (from reducing this contribution from $622 million to $547 million). The Administration indicates that this contribution level is sufficient to maintain the existing purchasing-power-protection benefit based on a 2005 actuarial analysis. In return, the Administration proposes to vest this purchasing-power-protection benefit at 80-percent of an individual's initial retirement allowance (instead of the current vesting that sets the State's contribution at 2.5 percent of salary without a vested level of purchasing-power-protection). Because the funding cut would be tied to a new vested benefit, the Administration argues this proposal is substantially different from the 2003-04 suspension that the State lost in litigation (see last page).

   Background / Detail: Last year, the Administration proposed a similar plan that was rejected by the Legislature. However, this year's plan differs in that the proposed language would allow the annual State contributions to be determined by STRS to the level necessary to maintain the 80 percent benefit (and not fixed at 2.2 percent of payroll as proposed last year).

   Since the January Governor's Budget, the STRS Board has adopted a recommended alternative and the California Retired Teachers' Association (CRTA) has also released an alternative. The three proposals are as follows:

   - **Governor's Proposal:**
     - Change vesting from 2.5 percent of payroll to 80 percent of purchasing power to save an estimated $80 million annually. (Current law pays at the 80-percent level, but that is not a vested benefit and could fall if 2.5 percent of payroll is insufficient to continue that level of payment.)
     - Change annual State payments to STRS from July 1 to November 1 and April 1 to improve General Fund cashflow. (Legislation was approved in the Special Session to move the 2008-09 payment to November 1, 2008 on a one-time basis).
     - Make the lawsuit interest payment over three years, beginning with $80 million in 2008-09 (about $130 million [plus interest on this interest] would remain to be paid in 2009-10 and 2010-11)
     - Pros: (1) saves the State $80 million in 2008-09 (and an additional $130 million from the deferral of interest payments) and may continue to provide savings as long as inflation does not exceed expectations; (2) ensures purchasing power protection for retired teachers will not fall below 80 percent.
     - Cons: (1) increases financial risk to the State – if inflation increases beyond

expectations (the assumption is that inflation will average 3.25 percent) all savings could erode and the State General Fund would have to pay whatever amount is necessary to maintain the benefit at 80 percent; (2) this proposal is opposed by STRS and the CRTA increasing the risk of litigation.

- **STRS's Proposal:**
  - Same as the Governor's proposal except changes the new vested benefit from 80 percent of purchasing power to 82.5 percent of purchasing power. STRS indicates that saving should still be estimated at $80 million annually. No net change in General Fund costs in 2008-09 relative to the Governor's proposal.
  - Pros: (1) saves the State $80 million in 2008-09 and may continue to provide savings as long as inflation does not exceed expectations; (2) increases retirement income for individuals who participate in the program and ensures purchasing power protection for retired teachers will not fall below 82.5 percent; and (3) the proposal is supported by STRS reducing the risk of litigation.
  - Cons: (1) increases financial risk to the State (even above that of the Administration's proposal) – if inflation increases beyond expectations (the assumption is that inflation will average 3.25 percent) all savings could erode and the State General Fund would have to pay whatever amount is necessary to maintain the benefit at 82.5 percent; (2) this proposal is opposed by CRTA increasing the risk of litigation.

- **CRTA's Proposal:**
  - Reduces vesting from 2.5 percent of payroll to 2.25 percent of payroll in exchange for a statutory, but non-vested, increase in the purchasing power protection level to 85 percent of initial retirement income.
  - Retains the annual payment deferrals in the Governor's plan (annual payments would be made in November and April).
  - Delays interest payments by deleting the 2008-09 payment and adding a 2011-12 payment. This would produce additional General Fund savings of $80 million in 2008-09 (but add to 2011-12 General Fund costs).
  - Pros: (1) saves the State $144 million in 2008-09 ($64 million more than the Administration) and does not obligate the State to increase payments if inflation exceeds expectations; (2) increases retirement income for individuals who participate in the program (by more than the STRS plan) but does not provide a vested guarantee that the payments cannot be reduced in the future below 85 percent.
  - Cons: (1) places a new non-vested pressure on the State to continue benefits at the 85 percent level (and increase State General Fund costs if inflation is high), even if there is ability to change statute to reduce the benefit; (2) does not provide retired teachers a vested guarantee that the payments cannot be reduced in the future below 85 percent; (3) STRS has not taken a position on this proposal, but opposition from STRS could increase the risk of litigation.

LAO Recommendation: The Legislative Analyst recommends that the Legislature reject the Administration's vesting proposal. The LAO finds there are risks in creating a new vested benefit, because under certain inflation assumptions, the proposal could increase State costs over the long-term (instead of producing the annual savings of about $80 million as the Administration calculates). Additionally, the LAO recommends paying the full $210 million interest obligation in 2008-09 because the judgment may not provide the State discretion to pay over time, and in addition STRS, legal action may require full payment in 2008-09.

Staff Comment: STRS contracted for an actuarial analysis that included some statistical tests for the sensitivity of savings to inflation estimates. The actuary indicates that the projected saving is very sensitive to the inflation assumption. The base inflation assumption is 3.25 percent, but if inflation averages 3.50 instead, all of the savings is lost, and the State would incur higher costs. The actuary also performed a stochastic analysis that looked at inflation averaging 3.25, but with an annual standard deviation of 2.0 percent – in this case there is 35 percent risk of a cumulative net cost to the State over a 30-year period.

Staff Recommendation: Keep open for the May Revision.

Action: Held open. Note, the prior page of the agenda indicates that the California Retired Teachers' Association (CRTA) opposes the CalSTRS alternative – the CRTA indicates that this is incorrect and that the CRTA Board has not taken a position on the CalSTRS proposal.

CalPERS–Related Public Employment Issues (pages 22 – 29)

1900 Public Employees' Retirement System

The Public Employees' Retirement System (PERS) provides benefits to about one million active and inactive members and about 441,000 retirees. PERS membership is divided approximately in thirds among current and retired employees of the State, schools, and participating public agencies. The Constitution grants the PERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. PERS sets the State's retirement and healthcare contribution levels – consistent with union contracts negotiated by the Governor and approved by the Legislature, and vested benefits. This budget item shows PERS benefits and administrative expenditures. State retirement contributions for current employees are built into individual department budgets and Control Section 3.60 (see also the "Control Section 3.60" section later in this agenda). State funding for 2007-08 Health and Dental Benefits for Annuitants is contained in Budget Item 9650 (see also the "9650 Health and Dental Benefits for Annuitants" section later in this agenda). The special authority provided to PERS by the Constitution does not extend to the component of the Health Benefits Program funded from the Public Employees' Contingency Reserve Fund, and, therefore, PERS submits BCPs and Finance Letters to the Legislature for budget changes in those areas.

The PERS Board adopted a 2008-09 budget that anticipates benefit and administrative expenditures of $14.9 billion (and 2,184.5 positions) – up $1.2 billion (and down 1.5 positions) from 2007-08. Administration is relatively unchanged at $320 million, so this increase is due to increased benefit costs. However, it should be noted that CalPERS also considers mid-year budget revisions which have been substantial in the past – for example the 2007-08 mid-year revisions increased administrative expenditures by about $31 million and 54 positions. The State's retirement contribution for current employees is estimated at $2.8 billion (including $1.6 billion General Fund) – an increase of $80 million (including a $45 million General Fund increase) relative to 2007-08. The State's 2008-09 cost for health and dental benefits for annuitants is estimated at $1.3 billion General Fund – an increase of $143 million. However, the retiree healthcare cost is adjusted after the enactment of the budget to collect the special fund share through the pro rata process – so the final General Fund cost is actually reduced by about $561 million.

According to a June 2006 actuarial analysis, PERS is about 87 percent funded for estimated long-term obligations, leaving an unfunded liability of $29 billion. These figures are based on the actuarial value of assets methodology that includes some asset smoothing to adjust for short-term fluctuations.

(See next page for issues).

CalPERS Budget Change Proposals: None of the proposed BCPs would be funded directly from the General Fund. However, the Department of Finance indicates that the state General Fund would ultimately be responsible for about one-third of the cost (the other two-thirds would be paid by local governments and State special funds). The Department of Finance indicates that it was able to quantify General Fund cost savings / cost avoidance in BCP #2 and #6 that totals to about ~~$1.3 million~~ $742,000 – corrected. This exceeds the total General Fund cost of $735,000 for all BCPs and results in net General Fund savings of ~~$613,000~~ $6,500 – corrected. Most of the other BCPs indicate cost savings / cost avoidance, but the expected amount is not quantified.

Proposed Consent / Vote Only:

1. **Public Agency Contracts (BCP #2).** PERS requests $235,000 (Contingency Reserve Fund) and 2.0 new positions to support increased core workload for contract management activities. PERS indicates that the workload increase is driven as more agencies join the Public Employees' Medical and Hospital Care Act (PEMHCA). PEMHCA provides a variety of health plans covering 1.2 million lives with participation from over 1,100 participating public employers. Additionally, the BCP indicates that failure to retain agencies will decrease the PEMHCA risk pool and result in higher health care costs for all PEMHCA members and employers, including the State of California. <u>The Department of Finance estimates approval of this proposal will result in General Fund savings of $1.2 million</u>.

   Action: Approved the request on a 3 – 0 vote.

2. **Quality Control and Special Projects Unit (BCP #6).** PERS requests $216,000 (Contingency Reserve Fund) and 2.0 new positions to support core workload for the Enrollment and Eligibility Unit under the Public Employees' Medical and Hospital Care Act (PEMHCA). This program is responsible for determining the health benefit eligibility of all prospective enrollees, and for processing the health benefit enrollments of over 1.2 million total covered individuals. PERS indicates many individuals are retiring earlier in their careers resulting in more workload. <u>The Department of Finance estimates approval of this proposal will result in General Fund savings of $120,000 (versus a General Fund share of cost of about $70,000).</u>

   Action: Approved the request on a 3 – 0 vote.

3. **Rate Development and Renewal (BCP #1).** PERS requests $417,000 (Contingency Reserve Fund) and 3.0 new positions to support program changes that will increase the ability to achieve cost avoidance. PERS indicates that for the 2008 rate year, the existing staff of 3.0 positions found $32 million in savings through use of the Health Care Decision Support System and validated a total of $144 million saved in the final rate quotes. <u>CalPERS indicates that if this proposal is rejected, the State will lose the opportunity to generate additional healthcare savings – while the marginal new saving is not quantified, the past actual savings data suggest there is the potential for significant cost savings from the new positions</u>.

   Action: Approved request on a 2 – 1 vote, with Senator Ackerman voting no.

4. **Health Information System Services Web-based Solutions (BCP #4).** PERS requests $646,000 (Contingency Reserve Fund) and 3.0 new positions to support Electronic Health Records (HER) and Health Information Technology (HIT) initiatives. The request includes $250,000 for external contracts. PERS indicates that these positions will lead web-based product development, and support front-end Medicare Part D subsidy claims processing. CalPERS indicates that if this proposal is rejected, the State will lose the opportunity to generate cost savings by realizing more federal subsidies in the Medicare Part D Low Income Subsidy.

Action: Approved request on a 2 – 1 vote, with Senator Ackerman voting no.

Staff Recommendation: Approve these requests.

Issues proposed for Discussion / Vote:

5. **Health Program Receivables (BCP #3).** PERS requests $352,000 (Contingency Reserve Fund) and 3.0 new positions to support core workload for Health Program Financial Receivables under the Public Employees' Medical and Hospital Care Act (PEMHCA). Two positions would specifically work in the Complementary Annuitant Premium Program (CAPP) that deals with approximately 1,400 individual annuitants whose retirement warrants are not sufficient to cover their health premiums – PERS indicates this workload has doubled in the past four years without a staffing increase. One position would work in the Public Agency Billing Unit to increase coordination with the Collections Unit.

   Staff Comment: Staff has reviewed this request for direct cost avoidance / cost savings and none seem likely in 2008-09. Given this difficult budget year, the Subcommittee may want to reject this BCP without prejudice to consideration of the request in a future year. PERS could either defer improvement to this program to a future year or redirect existing staff as warranted. On the margin, rejection of this BCP would reduce costs for the State and local governments who participate in PERS.

   Staff Recommendation: Reject this request.

Action: Rejected request on a 3 – 0 vote.

6. **Quality Control and Special Projects Unit (BCP #5).** PERS requests $117,000 (Contingency Reserve Fund) and 1.0 new position to implement quality control functions and facilitate a revitalized training program in the Data Reconciliation Unit.

   Staff Comment: Staff has reviewed this request for direct cost avoidance / cost savings and none seem likely in 2008-09. Given this difficult budget year, the Subcommittee may want to reject this BCP without prejudice to consideration of the request in a future year. PERS could either defer improvement to this program to a future year or redirect existing staff as warranted. On the margin, rejection of this

BCP would reduce costs for the State and local governments who participate in PERS.

Staff Recommendation: Reject this request.

Action: Rejected request on a 3 – 0 vote.

7. **Health Educators (BCP #7).** PERS requests *no* new funds and 2.0 new positions to accomplish education and communications activities for PERS staff, members, and employers. No new funding is requested because PERS generally receives "training" and "administrative cost" operating expense funding when positions are approved in BCPs for other purposes. The administration felt it could absorb the cost of these new positions using the training/administration funding added to the budget in BCPs this year and in recent past years.

   Staff Comment: Staff has reviewed this request for direct cost avoidance / cost savings and none seem likely in 2008-09. Given this difficult budget year, the Subcommittee may want to reject this BCP without prejudice to consideration of the request in a future year. PERS could either defer improvement to this program to a future year or redirect existing staff as warranted. Additionally, due to the difficult budget year, the Subcommittee may want to reduce the PERS operating and equipment budget by $235,000 (the approximate amount that would have otherwise been redirected for this purpose, and the amount of funding requested in BCP #2 for 2.0 positions of the same classification). About one-third of the requested savings (about $78,000) would benefit the General Fund.

   Staff Recommendation: Reject this request and cut PERS funding in this area by $235,000.

   Action: Rejected request, and reduced the budget by $235,000 on a 3 – 0 vote.

8. **Contract Management and Oversight (April Finance Letter).** PERS requests $359,000 (Contingency Reserve Fund) and 3.0 new positions (two-year limited term) to audit Health Maintenance Organization (HMO) operations to determine their actual costs for physicians, overhead, plant utilization, pharmaceutical contracts, etc. Together with the data that HMOs have to provide pursuant to AB 1296 (Ch 698, St 2007), this will enable PERS to more effectively negotiate health care rates.

   Staff Comment: Since the total health benefit cost is in excess of $3.5 billion for PERS enrollees, even relatively small changes to rates can result in large savings.

   Staff Recommendation: approve this request.

   Action: Approved request on a 2-1 vote with Senator Ackerman voting no.

9650 Health and Dental Benefits for Annuitants

This budget item provides funding for health and dental benefit services for more than 210,000 retired state employees and their dependents. The cost split between annuitants and the State is set by Government Code 22871, which establishes a "100/90" formula. Under the formula, the average premiums of the four largest health plans sets the maximum amount the State will contribute to an annuitant's health benefit. The State contributes 90 percent of this average for the health benefits of each of the retiree's dependents. The California Public Employees' Retirement System (PERS) negotiates health care rates with providers and future negotiations will affect the final cost to the State. Revised cost figures should be available in May or June. This funding covers 2008-09 costs and does not provide money to begin pre-funding retirement health costs for current State employees.

Budget Item 9650 includes $1.281 billion ($1.262 billion General Fund, and $19 million Medicare Part-D federal reimbursements) for Health and Dental Benefits for Annuitants – an increase of $143 million. However, the retiree healthcare cost is adjusted after the enactment of the budget to collect the special fund and federal share through the pro rata / SWCAP process – so the final General Fund cost is actually reduced by about $561 million. The LAO indicates that the Administration's cost figures assume a 3 percent growth in retirees and a 9.5 percent increase in premiums.

Staff Comment: Because final costs are not known until late May or early June, this issue is presented for informational purposes at this point. There may not be an opportunity for public testimony when the final number is provided; therefore, the Subcommittee may want to receive testimony from the LAO, the Administration, and the public at this hearing.

Staff Recommendation: Hold the budget for this item open for the May Revision, or Conference Committee, pending final cost numbers from CalPERS.

Action: Held open for anticipated May Revision changes.

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in the California Public Employees' Retirement System (CalPERS). This section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform to changes in these rates.

The State's contributions to CalPERS in 2008-09 are currently estimated at $2.8 billion ($1.6 billion General Fund) – an increase of $80 million over 2007-08 (including a $45 million General Fund increase). The following table provides proposed rates with historical comparisons, and is copied from the LAO's *Analysis of the 2008-09 Budget Bill*.

Figure 1

State Retirement Contribution Rates

1995-96 Through 2008-09 (As Percent of Payroll)

Fiscal Year	Misc. Tier 1	Misc. Tier 2	Industrial	Safety	Peace Officer/ Firefighter	Highway Patrol
1995-96	12.4%	8.3%	9.0%	14.2%	14.4%	14.8%
1996-97	13.1	9.3	9.3	14.7	15.4	15.9
1997-98	12.7	9.8	9.0	13.8	15.3	15.5
1998-99	8.5	6.4	4.6	9.4	9.6	13.5
1999-00	1.5	—	—	7.5	—	17.3
2000-01	—	—	—	6.8	2.7	13.7
2001-02	4.2	—	0.4	12.9	9.6	16.9
2002-03	7.4	2.8	2.9	17.1	13.9	23.1
2003-04	14.8	10.3	11.1	21.9	20.3	32.7
2004-05	17.0	13.2	16.4	20.8	23.8	33.4
2005-06	15.9	15.9	17.1	19.0	23.6	26.4
2006-07	17.0	16.8	17.9	19.3	24.5	31.5
2007-08	16.6	16.6	17.3	18.8	25.6	32.2
2008-09[a]	16.6	16.6	17.3	18.8	25.6	32.2

[a] Budgeted.

Staff Comment: The above rates show significant annual fluctuations, which is primarily based on the investment market. The rates in 2005-06 through 2008-09 reflect CalPERS' new rate stabilization policy, which builds gains and losses in the value of assets into the actuarial calculation of the plans' asset value, over 15 years, instead of the three years of the prior policy. While the rates generally stay flat in 2008-09 due to investment growth (investments grew about 19 percent in 2006-07, compared to the system's normal projected investment return of under 8 percent annually), the overall State contribution rises by $80 million primarily because of payroll growth. The LAO notes that the pension fund is 87 percent funded (or has a $29 billion unfunded liability) based on the smoothing methodology that the Board uses to assess contributions from the State. However, using an un-smoothed current market value approach, the pension fund is 93 percent funded (or has a $17 billion unfunded liability). The LAO indicates that this funding level is above average among large public pension systems – with the average U.S. pension system about 85 percent funded.

Issues for Discussion:

1. **PERS Revision of 2007-08 Retirement Contribution Rates.** As was indicted in the CalPERS section of this agenda, Proposition 162, approved by voters in 1992, amended the California Constitution to provide the PERS Board of Administration with authority over the administration of the retirement system and set contribution rates. The CalPERS Board is expected to adopt new rates at their May meeting. The budget will then be adjusted to reflect the new rates and costs.

   Staff Comment: The Administration expects to submit a May Finance Letter to reflect the adjusted rates.

   Staff Recommendation: Hold open until the May Revision.

   Action: Held open for anticipated May Revision changes.

2. **LAO Issue.** In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst withholds recommendation on the retirement contribution rates pending CalPERS action on the adoption of revised rates in May. The LAO recommends the CalPERS communicate unfunded liability such that the information provided is consistent with how the budget is set – that inconsistent information on unfunded liability may confuse policy makers and the public.

   Staff Comment: The Subcommittee may want to hear from both the LAO and PERS on this issue, to discuss the two different methodologies PERS uses to estimate unfunded liabilities.

   Staff Recommendation: Informational only.

   Action: No action – informational item. The Chair did indicate to CalPERS the preference of the Committee that actuarial information be clearly explained and not overly focused on short-term market fluctuations.

0860 Board of Equalization

The Board of Equalization (BOE) administers the sales and use tax programs, administers a variety of business and excise taxes and fees, and oversees the administration of the property tax by county assessors. The BOE is governed by a five-member board, consisting of four regionally elected members and the State Controller. The Board is also the final administrative appellate body for personal income and corporation taxes, which the Franchise Tax Board administers.

The Governor proposes expenditures of $430 million ($242 million General Fund) and 4,035 positions for BOE – an increase of $33 million ($20 million General Fund) and an increase of 235 positions. The new positions are primarily associated with activities that will decrease the "tax gap," which is the $2.0 billion annual difference between BOE taxes owed and taxes collected. The Board estimates the requested tax-gap positions will increase General Fund revenues by over $32 million in 2008-09.

Issues Proposed for Consent / Vote-Only

1. **Cigarette and Tobacco Programs (BCP #4).** The Administration requests $3.0 million ($238,000 General Fund), 13.0 new positions, and conversion of 20.0 limited-term positions to permanent, to enhance enforcement and voluntary compliance in the cigarette and tobacco product tax programs. The majority of the requested positions would work in the compliance and audit areas to address ongoing and new workload related to out-of-state tax avoidance, accounts receivable recovery, and tax audit activities. These efforts are expected to increase revenue by $30.1 million ($1.5 million General Fund) in 2008-09 and by $43.2 million ($1.9 million General Fund) in 2009-10. In addition to the General Fund benefit, the additional revenue collection would benefit programs funded out of the Breast Cancer fund, the Cigarette and Tobacco Products Surtax fund, and the California Children and Families First Trust Fund. The current tax is $.87 per pack of cigarettes.

2. **Agricultural Inspection Station Program (BCP #5).** The Administration requests $1.4 million ($800,000 General Fund), to continue for two years 16.0 limited-term positions that are associated with the Agricultural Inspection Station Tax Leads Pilot Program. Under this program, BOE staff is co-located with the Department of Food and Agriculture staff at the California border inspection stations for the detection and identification of property brought into California without payment of the sales and use tax. These continued efforts are expected to increase revenue by $6.35 million ($3.6 million General Fund) in both 2008-09 and 2009-10.

Action: Approved both consent / vote-only issues on a 2 - 0 vote, with Senator Kehoe absent.

Issues proposed for Discussion / Vote:

3. Electronic Filing Expansion (BCP #1). The Administration requests a 2008-09 augmentation of $4.7 million ($1.7 million General Fund), and 3.0 new positions to support expanded efforts in the area of electronic filing. <u>This is a multi-year proposal and the anticipated 6-year cost is expected to be $16.5 million with a 6-year revenue benefit of $27.6 million. If the workload savings from e-filing is redirected to revenue positions, an additional revenue benefit of $40.3 million is projected</u>.

Background / Detail: This request includes five components:

- <u>Internet Registration</u> – expand on-line registration to all tax and fee programs and allow tax and fee payers to enter business/personal information only one time for all permits/licenses required by the BOE.
- <u>E-Filing for Special Taxes</u> – add e-filing for special taxes which will improve accuracy, audit selection, and efficiency.
- <u>E-Filing for Fuel retailers and Distributors</u> – add e-filing for fuel taxes to speed reconciliation with associated sales tax payments and improved BOE efficiency.
- <u>On-line Requests for Extensions, etc.</u> – add functionality to increase BOE efficiency by automating manual processes.
- <u>On-line Requests for Installment Payment Agreements</u> – add functionally to increase BOE efficiency by automating manual processes.

LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst does not raise any concerns with this specific BCP, but does recommend the BOE's budget be reduced by $1.4 million (General Fund) to account for anticipated e-file saving in 2008-09 that would result from past e-file initiatives.

Staff Comment: The proposed budget already requests new positions to narrow the tax gap, so there should not be a benefit to redirecting existing e-file efficiencies to additional revenue activities in 2008-09. Staff understands the $1.4 million reduction ties to a BOE target for 2008-09.

Staff Recommendation: Approve the BCP, but also reduce the BOE budget by $1.4 million (General Fund) to reflect anticipated e-file savings from past initiatives.

Actions: Approved the BCP on a 2 – 1 vote with Senator Ackerman voting no. Approved the $1.4 million budget reduction in a separate motion on a 2 – 0 vote with Senator Kehoe absent.

4. Tax Gap / Revenue Request (BCP #2). The Administration requests an augmentation of $13.9 million ($9.0 million General Fund), and 136.5 new positions to support expanded efforts to narrow the tax gap and therefore collect more tax that is owed but not paid. <u>The BOE estimates this proposal would result in additional revenues of $32.3 million ($20.0 million General Fund) in 2008-09 and $60.9 million ($38 million General Fund) in 2009-10</u>.

Background / Detail: This request includes five tax gap initiatives:

- <u>Bankruptcy / Out-of-State Collections</u> – 5.0 positions and $545,000 ($354,000 General Fund) is requested to contract with FTB for bankruptcy data for out-of-state taxpayers, and additional BOE staff to speed the filing of tax liens and improve the State's lien priority for bankruptcy liquidation ($4.2 million [$2.6 million General Fund] revenue gain in both 2008-09 and 2009-10).
- <u>In-State Service Businesses</u> – 51.5 positions and $4.7 million ($3.1 million General Fund) is requested to increase compliance of use tax payment by service businesses inside the state that purchase goods outside the state ($13.6 million [$8.8 million General Fund] revenue gain in 2008-09 and $26.4 million [$16.0 million General Fund] in 2009-10).
- <u>Collection Improvements</u> – 14 positions and $1.3 million ($861,000 General Fund) is requested to increase audit activity ($2.9 million [$1.8 million General Fund] revenue gain in 2008-09 and $5.8 million [$3.7 million General Fund] in 2009-10).
- <u>Audit Improvements</u> – 63.0 positions and $7.0 million ($4.6 million General Fund) is requested to increase collection activity ($11.9 million [$7.6 million General Fund] revenue gain in 2008-09 and $24.6 million [$16.0 million General Fund] in 2009-10).
- <u>Non-Filers and Tax Evadors Discovery Research</u> – 3.0 positions (3-year limited term) and $351,000 is requested for research and survey work to develop procedures and leads to investigate, to narrow the tax gap for (1) internet sellers, (2) itinerant vendors, and (3) cash-based businesses. No revenue is scored for this effort, but BOE hopes this discovery research would result in future tax gap initiatives.

LAO Recommendation: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst makes several recommendations:

1. Score an additional $84,000 ($53,000 General Fund) in 2008-09 and $1.3 million ($0.8 million General Fund) in 2009-10 from an updated estimate of new revenues from the Bankruptcy component of this request.
2. Reject new funding for the Collection and Audit requests, and the field element of the In-State request, because they return only between $2 to $3 dollars in new revenue for every $1 spent.
3. Reject all but the internet-seller component of the Non-Filer request because the other components have a reduced chance of resulting in near-term revenue gains.

Staff Comment: The LAO recommendation #2 above would reduce budget costs by about $9.4 million (about $6 million General Fund) in 2008-09 and by $17.0 million (about $11.1 million General fund) in 2009-10. However, anticipated revenue would also fall by $15.4 million (about $10 million General Fund) in 2008-09 and by $34.7 million (about $22.5 million General Fund) in 2009-10. Therefore, relative to the Administration's BOE proposal, there is net loss to the General Fund of about $6 million in 2008-09 and $11.4 million General Fund. While it may be good long-term policy to staff BOE only to the level of a $4 or $5 dollar benefit per dollar spent on collections and audit, the Subcommittee may want to consider lowering this threshold given this difficult budget. Over time, the number of taxpayers grows and e-filing efficiencies improve, so BOE staff can be reset in the future to achieve a higher benefit cost ratio if that is the best long-term policy.

Staff Recommendation: Approve the BCP, but score an additional $84,000 in 2008-09 revenue and reduce the Non-Filer component to just the internet-seller position as recommended by the LAO.

Action: Approved the LAO recommendation on a 2 – 0 vote with Senator Kehoe absent. In addition to the LAO recommendations listed above, the LAO recommendation also included an $884,000 reduction to the "In-State Services Business" component of the BCP request.

5. **Statewide Compliance & Outreach / Revenue Request (BCP #3).** The Administration requests an augmentation of $11.6 million ($7.5 million General Fund), and 112.0 three-year limited-term positions (including the extension of 32.8 existing limited-term positions) to identify and register entities that actively engage in business in California and sell tangible personal property without a seller's permit. The BOE estimates this proposal would result in additional revenues of $60.2 million ($37.9 million General Fund) in 2008-09 and $81.1 million ($51 million General Fund) in 2009-10.

   Background / Detail: The BOE indicates this proposal will increase the number of permitted businesses operating in California by about 7,258 per year. Bringing businesses out of the underground economy levels the playing field for compliant businesses and reduces the tax gap.

   Staff Comment: This proposal has a net General Fund benefit of $30.4 million in 2008-09, and benefit-to-cost ratio exceeding 5:1.

   Staff Recommendation: Approve the request.

Action: Approved request on a 2 – 0 vote, with Senator Kehoe absent.

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers the personal income tax (PIT) program and the corporation tax (CT) programs. The FTB also administers the Homeowners' and Renters' Assistance Programs. The Department also performs some non-tax collection activities, such as the collection of child support payments and other court-ordered payments. The FTB is governed by a three-member board, consisting of the Director Finance the Chair of the Board of Equalization, and the State Controller. An executive officer, appointed by the Board, manages the daily functions of the Department.

The Governor proposes expenditures of $650 million ($554 million General Fund) and 5,348 positions for FTB – a decrease of $45 million (but a General Fund increase of $19 million) and an increase of 182.5 positions. The new positions are primarily associated with activities that will decrease the "tax gap," which is the $6.5 billion annual difference between taxes owed and taxes collected. The department estimates the requested tax-gap positions will increase General Fund revenues by over $90 million in 2008-09. Finally, the budget includes a minor adjustment to reflect a new voluntary contribution checkoff on tax returns – specifically, the California Sea Otter Fund (BCP 13), which was established by AB 2485 (Ch 296, St of 2006). The budget includes $6,000 from the California Sea Otter Fund to pay the FTB cost of administering the program.

Issues Proposed for Consent / Vote-Only

1. **Encoder Replacement (BCP #5).** The Administration requests a one-time augmentation of $1.2 million ($1.1 million General Fund) to replace three existing encoders. The existing encoders identify each check and money order, encodes it with the correct money amount, endorses it, and then sorts it to the correct bank. They have reached the manufacture's "end of life" and therefore face an increasing risk of failure. The new encoders will also be able to scan smaller documents (currently processed on large high-speed scanners) thus allowing FTB to scan tax returns and other larger documents more quickly and improve efficiency. If one of the existing encoders were to fail during a busy tax period, deposits could be delayed, resulting in a General Fund interest loss of up to $100,000 per day.

2. **Withhold at Source System (BCP #6).** The Administration requests $654,000 in 2008-09, and a five-year total of $7.3 million (all General Fund) for an information technology project to replace a system that processes non-wage withholding payments. Non-wage withholding includes real estate withholding and nonresident withholding for partnership distributions, independent contractors, and entertainers – these withholdings generate $2 billion in annual revenue. The existing system has limitations for exporting and importing data from other tax compliance systems, is vulnerable to unauthorized and undetectable access and manipulation, and provided limited standard management reports. The new system will address these deficiencies and generate an additional $7.8 million over the first five years of implementation – so this project will fully pay for itself over five years. The system will also provide taxpayers with new electronic filing options.

3. **California Child Support Automation System (BCP #15 and April Finance Letter)** The proposed budget includes $7.9 million (General Fund) and a decrease of $15.8 million in reimbursements to align the California Child Support Automation System (CCSAS) to the revised project documents. This information-technology project is managed by the FTB as an agent of the Department of Child Support Services (DCSS). The Department reports that in May 2007, the pilot counties for Version 2 were rolled out and the final county (Los Angeles) will be fully transitioned to the statewide system in November 2008. The April Finance Letter requests the shift of $44.5 million General fund and $44.1 in Reimbursement authority, as well as 146.0 positions to the Department of Child Support Services (DCSS) to affect the transfer of full responsibility for implementation of the CCSAS Project from FTB to DCSS. Since the Department of Child Support Services is in Subcommittee #3, staff will monitor that committee's actions related to CCSAS and bring any conforming changes to Subcommittee #4 as needed.

4. **Security Workload Growth (BCP #9).** The Administration requests an augmentation of $27,000 ($14,000 General Fund), a redirection of $440,000 (all General Fund) from E-File and E-Services savings, and 4.7 two-year limited-term positions (and deletion of 8.0 existing positions no longer needed because of E-File and E-Services), for securing FTB's critical assets and protecting confidentiality of taxpayer data. Of the 4.7 positions, 2.7 positions would address *inside* security threats such as inappropriate employee access or use of taxpayer information. The other two positions would address *external* security threats such as inappropriate vender activity or unauthorized access to FTB data and systems. Another consideration is that FTB must comply with Internal Revenue Service Security rules for federal information shared by the IRS – failure to adequately protect this data could result in the refusal of the IRS to provide the data, which would have a substantial negative impact on State revenue.

5. **Limited Liability Corporation – Court Decision (April Finance Letter).** The Administration requests $178,000 General Fund and 3.0 two-year limited-term positions to process the refunds of 4,000 claimants covering 10,000 tax years. The FTB was ordered by the California Court of Appeals to return a portion of the Limited Liability Corporation (LLC) fees paid by LLCs doing non reportable business in California.

6. **Court Ordered Debt Collection (BCP #7 & April Finance Letter).** The Administration requests $3.9 million (Court Collection Fund) and 56.5 positions (26.5 new positions, conversion of 12 limited-term positions to permanent, and 18 continuing limited-term positions) to continue the development and implementation of the Court Ordered Debt (COD) information technology project, and support the increase in collection program activities. The COD program has authority to collect delinquent court-imposed fines, penalties, forfeitures, and restitution orders. The April Finance Letter requests the addition of a budget bill provision to specify that the 15 percent limit on FTB administrative costs for court debt collection may be exceeded in 2008-09 due to the one-time costs of implementing the information technology project.

   Background / Detail: Since 1995, $320 million has been collected by FTB for the courts. Revenue collected supports county accounts, the State Restitution Fund, Victims-Witness Assistance fund, as well as the State General Fund. Collection activity has increased in recent years and this request supports the increased workload.

   Staff Recommendation: Approve the above requests.

Action: Approved all consent / vote-only issues on 2 – 0 vote, with Senator Kehoe absent.

Issues proposed for Discussion / Vote:

7. **Tax Gap – Base FTB Board Request (BCP #3).** The Administration requests an augmentation of $6.5 million (General Fund), and 68.5 new positions to support expanded efforts to narrow the tax gap and therefore collect more tax that is owed but not paid. <u>The FTB estimates this proposal would result in additional General Fund revenues of $22 million in 2008-09 and $38.5 million in 2009-10</u>.

   Background / Detail: This request includes three distinct tax gap initiatives:
   - <u>Fraud Prevention and Detection</u> – of the 32 positions and $2.4 million (General Fund) requested in this area, 18 positions would help reduce fraudulent use of the child and dependent care credit ($8.3 million General Fund savings in 2008-09 and $13.9 million in 2009-10), and the remaining 14 positions would help reduce fraudulent W-2 filings and reduce fraudulent refunds ($4.1 million General Fund savings in 2008-09 and $6.7 million in 2009-10).
   - <u>Audit Workload Growth</u> – 36.5 positions and $4.0 million (General Fund) are requested to bring staffing to the level to address all audit workload that statistically should produce an average benefit-to-cost ratio of 4:1 ($10.0 million General Fund revenue in 2008-09 and $20.0 million in 2009-10).
   - <u>Compliance Behavior Study</u> – $100,000 is requested for external consultants to measure the indirect effect, or change in taxpayer behavior, from FTB's various compliance activities.

   Staff Comment: The LAO raised some technical issues concerning the calculation of savings. The FTB revised the revenue estimate, and indicates that revenue in 2008-09 should be $300,000 higher in 2008-09 than the $22 million currently scored in the Governor's Budget from this BCP.

   Staff Recommendation: Approve the request, including the revised revenue estimate.

   Action: Approved request with revised revenue estimate on 2 – 0 vote, with Senator Kehoe absent.

8. **Tax Gap – Secondary Administration Request (BCP #14).** The Administration supplemented the Board-approved tax gap request in BCP #3, with additional initiatives that would increase the budget by $9.9 million (General Fund), and 138.7 new positions. <u>The FTB estimates this proposal would result in additional General Fund revenues of $71 million in 2008-09 and $125 million in 2009-10</u>.

   Background / Detail: This request includes five distinct tax gap initiatives:
   - <u>New Data Source Pilot</u> – 14.5 positions and $1.0 million (General Fund) are requested to better focus collection of unpaid tax debt by using Department of Motor Vehicles data on luxury auto registrations (cars with a value exceeding $40,000). This data should improve the ability of FTB to collect more of the

$7.3 billion in unpaid tax debt that has an “uncollectible status” ($27.0 million General Fund revenue in 2008-09 and $27.0 million in 2009-10).

- <u>Vendor Contract / Administration for Non-Filer Mailing Addresses</u> – 35.0 positions and $2.6 million (General Fund) are requested to purchase good/mailable addresses from vendors in order to send notices to non-filers with bad addresses. These contracts and associated FTB administration would allow the department to contact an additional 110,000 non-filers annually ($7.1 million General Fund revenue in 2008-09 and $23.0 million in 2009-10).
- <u>IRS Information Return Master File (IRMF)</u> – 26.2 positions and $2.1 million (General Fund) are requested for a $250,000 vendor contract and State staff to more effectively analyze and use federal IRMF data, which includes payer and payee interest, partnership / S Corporations, distributions, gambling winnings and miscellaneous other categories. FTB believes they can better mine this data to identify an additional 60,000 non-filers annually, and better focus collection efforts ($13.4 million General Fund revenue in 2008-09 and $46.8 million in 2009-10).
- <u>Collection Program Workload</u> – 60.0 positions and $4.1 million (General Fund) are requested to do additional collections activity. FTB indicates that position reductions in 2003-04 and the requirement to absorb certain price increases in 2005-06 and 2007-08 have reduced collection activity, which this request would restore ($18.5 million General Fund revenue in 2008-09 and $18.5 million in 2009-10).
- <u>Mandatory E-Pay for PIT Payments over $20,000</u> – 3 positions and $161,000 (General Fund) are requested to implement a mandatory electronic payment of estimated tax installments that exceed $20,000 or with tax liabilities of $80,000 or more. This change would reduce deposit delays and increase the interest earnings of the State. FTB indicates that 1.8 percent of taxpayers would be affected, but those taxpayers pay over 50 percent of PIT revenues. New Jersey, Massachusetts, and Illinois currently have mandatory electronic payment requirements. ($5.0 million General Fund revenue in 2008-09 and $10.0 million in 2009-10).

Staff Comment: No issues have been raised with the reasonableness of the revenue estimates associated with these initiatives. The Administration did not submit trailer bill language associated with the last issue above (Mandatory E-Pay) and indicated their intent is to seek statutory change through a policy bill. The Subcommittee may want to separate the Mandatory E-Pay issue from the others, pending review of the necessary statutory language.

Staff Recommendation: Approve the request, except hold open the Mandatory E-Pay segment pending review of the necessary statutory language.

Action: Approved the request, except held open the Mandatory E-Pay component, on a 3 – 0 vote. The Chair requested that FTB provide additional information on taxpayer payment options and statutory language.

9. Tax Gap – Additional LAO Suggestions (also April Finance Letter). In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends additional tax gap measures the Legislature could take which would increase General Fund revenue. The Administration has adopted some of these recommendations in an April Finance Letter, and also suggested a new Tax Gap proposal. The LAO and Administration proposals combined would result in an augmentation of $3.3 million (General Fund), and 77.5 new positions. The FTB estimates these proposals would result in additional General Fund revenues of $37 million in 2008-09 and $53.9 million in 2009-10.

Background / Detail: This issue includes four distinct tax gap initiatives:

- IRS Revenue Agent's Reports (LAO and April FL) – 29.5 positions and $2.0 million (General Fund) are requested to analyses the growing number of IRS Revenue Agent's Reports (RARs), which detail additional federal tax liability from high-income individuals. The FTB receives these IRS reports, and generally, the federal audit finding of unpaid tax liability correlates with additional State liability. ($27.0 million General Fund revenue in 2008-09 and $38.4 million in 2009-10).

  Action: Approved on a 3 – 0 vote.
- Out-of-State Audit Workload (LAO only) – 10.0 positions and $500,000 (General Fund) are requested to perform additional audit activity for taxpayers located outside California, but who have California tax liability. (No General Fund revenue in 2008-09, $1.5 million in 2009-10, increasing to $10 million by 2011-12).

  Action: Approved on a 2 – 1 vote with Senator Ackerman voting no.
- Modify Group Income Tax Return Provisions (LAO only) –$100,000 (General Fund), and statutory change are recommended to increase the number of non-residents who are eligible for filing group tax returns, and thereby identifying current non-filers. Under current law, certain non-residents who receive income from a pass-through entity (partnerships or S corporations) that derives income from California sources, can elect to have the pass-through entity file a group nonresident return on their behalf. By expanding eligibility for group returns for non-residents with a tax liability exceeding $1.0 million, more non-residents who are not currently filing returns should begin to file via group returns. ($2.0 million General Fund revenue in 2008-09 and $6.0 million in 2009-10).

  Action: Approved on a 3 – 0 vote.
- Collection of Inactive Accounts Receivable (April FL only) – 9.0 positions and $576,000 (General Fund) are requested to increase collection efforts on outstanding accounts that have been placed in discharged status. (General Fund revenue gain of $8.0 million in 2008-09 and ongoing).

  Action: Approved on a 2 – 1 vote with Senator Ackerman voting no.

Staff Comment: The LAO revenue estimates in the *Analyses of the 2008-09 Budget Bill* have been further refined by FTB, but staff understands there is no dispute over the revised numbers discussed above.

Staff Recommendation: Approve the tax gap proposals presented in this issue for a General Fund revenue gain of $37 million in 2008-09.

8885 Commission on State Mandates

The Commission on State Mandates (Commission) is responsible for determining whether a new statute, executive order, or regulation contains a reimbursable State mandate on local governments and determining the appropriate reimbursement to local governments from a mandate claim. This budget item appropriates the funding for the staff and operations cost of the Commission, and appropriates non-Proposition-98 mandate payments to local governments.

The Governor proposes expenditures of $142.6 million ($140.7 million General Fund) and 12.0 positions (a decrease of 1.0 position). Included in these numbers, is a proposed 10-percent budget reduction of $168,000 and 1.0 position to the Commission's administration. The Budget also reflects the proposal, which was adopted in the Special Session, to discontinue the practice of paying *estimated* claims, and only pay claims once the full-year's cost has been incurred and filed with the State. This action reduced General Fund costs by $75 million in 2008-09 by shifting that cost to 2009-10.

Post Proposition 1A, the State is required to pay ongoing mandate claims and the budget includes $64.0 million General Fund for this purpose. Proposition 1A also requires the repayment of all pre-July 1, 2004, mandate claims over an unspecified number of years. The budget includes $75 million (General Fund) to pay a portion of the $900 million in outstanding pre-July 1, 2004 mandate claims.

Issues Proposed for Consent / Vote Only:

1. **Schedule Update for Two New Mandates (April Finance Letter).** The Administration requests amendments to the main mandate payment item in the budget bill to reflect the following two new mandates (1) DNA Database & Amendment to Post Mortem Exams: Unidentified Bodies (Ch. 822, St 2000; Ch 467, St 2001); and (2) Handicapped and Disabled Students II (Ch 1128, St of 1994; Ch 654, St 1996). No additional budget funding is needed for these mandates in 2008-09.

Staff Recommendation: Approve this request.

Action: Approved on a 3 – 0 vote.

Issues Proposed for Discussion:

2. **Budget Reduction to Commission Administration (Governor's Budget).** The Administration requests a 10 percent budget reduction ($168,000) to the Commission to help address the General Fund deficit. The Commission reports that it has made recent progress in reducing its mandate backlog by reducing the test claim workload from 102 claims to 68 claims between July 2006 and December 2007. A budget reduction of $168,000 and 1.0 position may slow the clearance of backlogs. Slowing progress on the backlog would delay determination and payment of new mandate claims, and to the extend mandate costs exceed expectations, and statutory change is required, it would also delay statutory amendments to change the mandate to reduce costs.

   Staff Comment: The Subcommittee may want to hear from the Commission on the cost risks to the State associated with the proposed budget reduction. If the reduction is approved, the Subcommittee may want to revisit Commission staffing in a future year and make budget adjustments if warranted.

   Staff Recommendation: Approve the proposed budget reduction.

   Action: Approved on a 3 – 0 vote.

9100 Tax Relief

The 9100 budget item includes several programs that provide property tax relief by: (1) making payments to individuals to partially offset their property tax payment (or rent in the case of renter), and (2) making payments to local governments to help defray revenues lost as a result of tax relief programs. There are five tax relief programs in this item, and the funding amount indicated is the amount budgeted (all General Fund) prior to proposed budget reductions:

- Senior Citizens' Property Tax Assistance ($40.6 million)
- Senior Citizens' Property Tax Deferral Program ($25.8 million)
- Senior Citizen Renters' Tax Assistance Program ($150.3 million)
- Homeowners' Property Tax Relief ($442.5 million)
- Subventions for Open Space / Williamson Act ($38.6 million)

The Homeowners' Property Tax Relief program is constitutionally required, and therefore it is excluded from the 10-percent cut proposals. The Governor proposes that the remaining four programs each receive a 10-percent budget cut to save $25.5 million (General Fund). The proposed cuts to homeowners/renters programs are outlined in issue #1, and the proposed cuts to the Williamson Act program is discussed in issue #2.

Issues Proposed for Discussion:

1. **Homeowners/Renters Programs (Governor's Budget).** The Administration requests a 10-percent budget reduction ($21.6 million) to the three homeowners/renters tax relief programs. The reductions are proposed as proportional cuts, so each recipient would see their payment fall by 10 percent.

   Background / Detail: The three programs included in this issue are as follows:
   - Senior Citizens' Property Tax Assistance – provides income-based payments to homeowners with household incomes below $42,770 who are over 62, disabled, or blind. The maximum annual grant is currently $473. The proposed 10-percent would result in General Fund savings of $4.1 million.
   - Senior Citizens' Property Tax Deferral Program – allows homeowners with annual household incomes below $35,500, and who are at least 62 years old, blind, or disabled, to postpone their property tax payments. The state makes the property tax payments on the homeowners' behalf, and is reimbursed when the home is sold, or the qualifying occupants cease their residency. The proposed 10-percent would result in General Fund savings of $2.6 million.
   - Senior Citizen Renters' Tax Assistance Program - provides income-based payments to renters with household incomes below $42,770 who are over 62, disabled, or blind. The maximum annual grant is currently $348. The proposed 10-percent would result in General Fund savings of $15.0 million.

   LAO Comment / Alternative: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends rejection of the Governor's 10-percent across-the-board approach and instead recommends an alternative that results in similar budget savings, but shifts the impacts away from the lowest-income taxpayers. To illustrate their criticism of the Governor's proposal, the LAO indicates that under the Administration plan the average homeowner with an income of $40,000 would see his or her payment reduced by $2, but a renter with an income of $10,000 would have his or her payment reduced by $35. The LAO recommends that the Renters' Program and Property Tax Deferral Programs be left whole, and instead the Property Tax Assistance program income limits be rolled back from $42,800 to $33,000. This would result in savings of $18.5 million (versus the $21.6 million in the Governor's Proposal).

Staff Comment: If the Legislature determines that cuts in this area of the magnitude of $20 million are necessary, the LAO's approach appears to be preferable to the Administrations. However, the Subcommittee may want to hold action at this time to consider the relative merits of tax relief in this area (budget expenditures) versus tax relief in the area of tax expenditures. While the Administration has drawn a distinction between tax relief grant programs (such as these programs) and tax relief via tax expenditures that reduce tax payments, the end result to the taxpayer is not dissimilar.

Staff Recommendation: Keep open for further analysis.

Action: Held open to further consider in the context of overall tax relief and State/ local fiscal issues.

2. **Subventions for Open Space / Williamson Act (Governor's Budget).** The Administration requests a 10-percent budget reduction ($3.9 million) to Williamson Act grants. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property owners pay reduced property taxes because the land is assessed at the lower-than-maximum level. The State then *partially* compensates the local governments for their related property tax loss. The Administration reduction proposal would lower payments to cities and counties, but would not restrict new Williamson Act contracts between property owners and local governments.

   LAO Comment / Alternative: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst recommends approval of the 10 percent reduction proposed by the Governor, but also that the program be phased out by not allowing any new contracts. Budget savings would increase annually as contracts expire until the program is fully phased out in 10 years. The LAO indicates that the Williamson Act is not a cost-effective land conservation program because in many cases it subsidizes landowners for behavior they would have taken regardless.

   Staff Recommendation: Keep open to consider this reduction in the context of other requested reductions in the local government area.

Action: Held open to further consider in the context of overall State/local fiscal issues.

9210 Local Government Financing

The 9210 budget item includes a variety of State General Fund subventions to local governments for general or specific activities. Some of the larger subventions are listed below, and the funding amount indicated is the amount budgeted (all General Fund) prior to proposed budget reductions: :

- Small and Rural Sheriffs Grant Program ($18.5 million)
- Citizens' Option for Public Safety / Juvenile Justice Crime Prevention ($238 million)
- Booking Fees ($35 million)
- Disaster Property Tax Relief ($877,000)
- Redevelopment Agency Special Subventions ($800,000)

The Governor proposes a 10-percent budget cut to all of these programs to save $29.4 million (General Fund), and reduce spending in this budget item from $293.2 million to $263.7 million. The proposed cuts to the law-enforcement / juvenile justice programs are not covered in this agenda, because they will be grouped with other law enforcement budget topics when those issues are discussed at a subsequent hearing.

Issues Proposed for Discussion:

1. **Disaster Property Tax Relief (Governor's Budget).** This budget item funds tax relief to homeowners and local governments impacted by specified natural disasters. For example, SB 38 (Ch 22, St of 2007) provide specified property tax relief to individuals and local governments for property damage caused by wildfires in Riverside County. The Governor proposes a 10-percent reduction in this item for savings of $88,000.

   Staff Comment: The Administration indicates that this reduction would not impact any property owners or local governments, because they would still be entitled to related benefits even in excess of the appropriated amount. In recent years a significant amount of the budget Act appropriation for similar legislation has been unclaimed, and reverted to the General Fund as savings. So this proposed reduction does not really cut a program, it just scores an anticipated savings that would revert on its own if realized.

   Staff Recommendation: Keep open to consider this reduction in the context of other requested reductions in the local government area.

   Action: Held open to further consider in the context of overall State/local fiscal issues.

2. **Redevelopment Agency Special Subventions (Governor's Budget).** This budget item funds State subventions to Redevelopment Agencies to backfill revenues they lost in the 1980s. These redevelopment subventions were instituted after the State eliminated personal property tax supplemental subventions to redevelopment agencies. The current subventions were intended to ensure that redevelopment agencies would not default on bonds that had been backed with personal property tax subvention revenue. The funds are only provided to RDAs that were in existence when the tax was eliminated, and only is provided to those RDAs that need the funds to cover bond indebtedness costs. The Governor proposes a 10-percent reduction in this item for savings of $80,000.

   Staff Comment: This subvention was instituted about 20 years ago and since then property tax revenues has grown significantly and Proposition 1A was approved to better define State and local revenue. In light of these events, and the current General Fund situation, the Administration should be prepared to discuss whether it would create an undue hardship on redevelopment agencies to completely eliminate this subvention and have affected redevelopment agencies absorb a $800,000 reduction.

   Staff Recommendation: Keep open to consider this reduction in the context of other requested reductions in the local government area.

   Action: Held open to further consider in the context of overall State/local fiscal issues.

9350 Shared Revenues

The 9350 budget item apportions special monies collected by the State to local governments on the basis of statutory formulas. Of the amounts displayed in this budget item, $12.3 million is General Fund and $2.1 billion is special funds and federal funds. As indicated, the apportionments are generally statutory, and this year, there is no budget bill appropriation for this budget. However, the Administration proposes trailer bill language to implement 10-percent budget reductions for the two General Fund apportionments.

Issues Proposed for Discussion:

1. **Trailer Vehicle License Fee (Governor's Budget).** This budget item apportions revenue to cities and counties that lost Vehicle License Fee (VLF) revenue when the State converted from an un-laden weight system to a gross vehicle weight system for purposes of assessing VLF for commercial vehicles. This change conforms with the International Registration Plan, a reciprocity agreement among US states and Canada for payment of commercial license fees based on distance operated in each jurisdiction. This funding is deposited in the Local Revenue Fund to support local health and welfare programs. The Governor proposes a $1.2 million cut (10 percent) to this $11.9 million backfill apportionment.

   Staff Comment: This apportionment was instituted before, and is separate from, the VLF Swap that shifted property tax to cities and counties to backfill for the VLF rate reduction. Proposition 1A has since been approved to better define and stabilize State and local revenue. At least in the short term, local governments have benefited from the VLF Swap because property taxes have grown at a faster rate than vehicle license fees. According to Department of Finance estimates, cities and counties will receive approximately $6.1 billion in VLF Swap property taxes in 2008-09; however, if the VLF was still set at the historic 2-percent rate, they would only get about $5.0 billion. The VLF Swap is protected by Proposition 1A restrictions, but the trailer fee backfill is not constitutionally protected.

   In light of the General Fund budget condition, and revenue benefit cities have received from the VLF Swap, the Subcommittee may want to consider eliminating this Trailer VLF backfill to save the General Fund $11.9 million.

   Staff Recommendation: Keep open to consider this reduction in the context of other requested reductions in the local government area.

   Action: Held open to further consider in the context of overall State/local fiscal issues.

2. **Tideland Oil Revenue (Governor's Budget).** This budget item apportions 1 percent of revenue received by the State from leases of publicly owned coastal waters for oil extraction, to local governments in whose jurisdiction the extractions are occurring. Statute requires that the amounts paid to cities and counties shall be deposited in a special tide and submerged lands fund to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of lands within the boundaries of the cities and counties, for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastlines, and the mitigation of any adverse environmental impact caused by exploration for hydrocarbons. The Governor proposes a $46,000 cut (10 percent) to this $462,000 apportionment.

   Staff Comment: This apportionment provides compensation to local communities that may be impacted from State leases of offshore waters for oil extraction.

   Staff Recommendation: Keep open to consider this reduction in the context of other requested reductions in the local government area.

   Action: Held open to further consider in the context of overall State/local fiscal issues.

Control Section 31.00 - Administrative Procedures for Salaries and Wages

Control Section 31.00 specifies Department of Finance oversight responsibilities concerning salaries and wages, and the establishment of positions. The control section also establishes notification requirements for the Administration to report to the Legislature when positions are administratively established and when a position is re-classed to a position with a minimum salary step exceeding $6,808 per month. Similar language was approved by the Legislature with the 2007 Budget Act.

Staff Comment: The LAO has suggested some amendments to the language to streamline the document requirements of the control section. Staff understands there is no objection to these amendments. The revised language is as follows:

> *c) The Department of Finance shall, for a period of not less than two years, keep and preserve documentation concerning (1) the authorization of any position not authorized for that fiscal year by the Legislature and (2) any reclassification to a position with a minimum step per month of $6,808, which is equivalent to the top step of the Staff Services Manager II (Managerial) classification as of July 1, 2008. The department may use electronic means to keep and preserve this documentation.*

Staff Recommendation: Approve the control section with the revised language.

Action: Approved revised language on a 3 – 0 vote.

Control Section 32.00 Prohibits Excess Expenditures

Control Section 32.00 of the budget bill prohibits expenditures in excess of appropriations, except for specified health and safety situations, and when specified legislative notification has been provided. The language specifies the department directors may be held personally liable for any indebtedness beyond the appropriated level and when no specified exception applies. This language proposed this year includes a new subsection that removes personal liability for any amount of indebtedness related to 10-percent budget reductions as contained in Control Section 4.44.

Staff Comment: The Administration proposed a similar amendment to the 2007 Budget Act Control Section 32.00 in the Special Session, and this amendment was rejected by the Legislature. Additionally, the Department of Finance submitted a Finance Letter dated March 25, 2008, that deleted Control Section 4.44.

Staff Recommendation: Conform to the Special Session action and delete the Administration's amendments to Control Section 32.00 that remove personal liability for excess expenditures involving reductions in Control Section 4.44.

Action: Conform to Special Session action on a 3 – 0 vote.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Dick Ackerman
Christine Kehoe

Hearing Outcomes

Note: Senator Ackerman was absent from the room when the votes on this agenda were taken, so the 2 – 0 votes reflect "aye" votes from Senator Machado and Senator Kehoe.

Agenda – Part A

Wednesday, April 9, 2008
9:30 a.m.
Room 113

Consultant: Brian Annis

State Treasurer and Related Boards/Committees/Authorities

Department Budgets Proposed for Consent / Vote Only

(See consolidated vote-only actions on page 3)

0954 Scholarshare Investment Board

The ScholarShare Investment Board sets investment policies and oversees all activities of ScholarShare, the State's 529 college investment plan. The program enables Californians to save for college by putting money in tax-advantaged investments. After-tax contributions allow earnings to grow tax-deferred, and disbursements, when used for tuition and other qualified expenses, are federal and state tax-free. The ScholarShare Investment Board also oversees the Governor's Scholarship Programs and California Memorial Scholarship Program. The proposed budget for the Board is $2.3 million ($952,000 General Fund) and 7.0 positions, a decrease of $52,000 and no change in positions. This budget includes a $105,000 General Fund reduction that is related to lower contract costs for the Governor's Scholarship Program. The Governor's Scholarship Program was a new General Fund program implemented in 2000, but discontinued in 2003 due to General Fund pressures. Costs continue today, but are annually diminished as the awards granted in years 2000 through 2002 are paid.

0959 California Debt Limit Allocation Committee

The California Debt Limit Allocation Committee's mission is to allocate tax-exempt private activity bond authority for the State of California. Private activity bonds may only be used by the private sector for projects and programs that provide a public benefit. The major public benefit in California is the creation of affordable housing. The proposed budget for the Committee is $1.2 million (California Debt Limit Allocation Committee Fund) and 9.0 positions, an increase of $16,000 and no change in positions. No budget change proposals were submitted for the Committee.

0965 California Industrial Development Financing Advisory Commission

The California Industrial Development Financing Advisory Commission creates employment opportunities and supports local economic development. The Commission meets this goal by approving local entities' issuance of Industrial Development Bonds (IDBs). The IDBs provide manufacturers with a low-cost financing option to build or expand their operations. The proposed budget for the Commission is $331,000 (Industrial Development Fund) and 1.0 position, a decrease of $4,000 and no change in positions. No budget change proposals were submitted for the Commission.

0971 California Alternative Energy and Advanced Transportation Financing Authority

The mission of the California Alternative Energy and Advanced Transportation Financing 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. The proposed budget for the Authority is $204,000 (California Alternative Energy Authority Fund) and 1.0 position, a decrease of $2,000 and no change in positions. No budget change proposals were submitted for the Authority.

0977 California Health Facilities Financing Authority

The California Health Facilities Financing Authority issues revenue bonds to assist qualified private nonprofit corporations or associations, counties, and hospital districts in financing or refinancing the construction, equipping or acquiring of health facilities. The Authority also administers the Children's Hospital Program established by Proposition 61. The proposed budget for the Authority is $1.4 million (various special funds) and 14.5 positions, an increase of $27,000 and no change in positions. The budget also includes $250.0 million in local assistance grants (special fund). No budget change proposals were submitted for the Authority.

0985 California School Finance Authority

The California School Finance Authority oversees the statewide system for the sale of revenue bonds to reconstruct, remodel or replace existing school buildings, and to acquire new school sites and buildings to be made available to public school districts, charter schools, and community colleges, and to provide access to financing for working capital and capital improvements. The proposed budget for the Authority is $1.1 million (various special funds) and 4.9 positions, an increase of $14,000 and no change in positions. The budget also includes $9.7 million in local assistance grants (federal funds). No budget change proposals were submitted for the Authority.

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

Staff Recommendation: Approve all the consent / vote only budgets.

Action: Approved all budgets on the consent / vote-only calendar on a 2 – 0 vote.

Department Budgets Proposed for Discussion

0950 State Treasurer

The State Treasurer's Office (STO), a constitutionally established office, provides banking services for state government with goals to minimize interest and service costs and to maximize yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the state; investment of temporarily idle state monies; administration of the sale of state bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other state agencies.

The Governor proposes expenditures of $26.8 million ($6.4 million General Fund) and 239 positions – an increase of $939,000 (a General Fund decrease of $554,000) and an increase of 11 positions. Included in these numbers, is a proposed cut of $715,000 to help close the General Fund deficit. The non-General Fund expenditures of the Treasurer's Office are supported by reimbursements for services provided to other State departments and local governments.

The proposed budget included $619,000 (reimbursements) and 4.7 positions to implement the Treasurer's Office portion of the Financial Information System for California (FI$CAL) information technology project, which would be coordinated by the Department of Finance. Action on this item should be deferred at this hearing, and then made to conform to the action the Subcommittee takes on the FI$CAL when the Department of Finance is heard.

Issues Proposed for Consent / Vote Only:

1. **Pooled Money Investment Account Loan Program (BCP #5).** The State Treasurer's Office requests $277,000 to accommodate an increase in the cost of accounting services for the Pooled Money Investment Account (PMIA) Loan Program. The PMIA loan program provides interim financing for the General Obligation Bond Program. The STO contracts with the State Controller's Office (SCO) for accounting services to administer the PMIA loan program. The SCO's workload and costs are up due to the $43 billion in General Obligation bonds approved by the voters in the November 2006 election. This request conforms to an SCO budget request which was approved by the Subcommittee on March 26.

2. **Revenue-Generating Proposals (BCPs #3 & #4).** The State Treasurer's Office submitted 2 budget proposals requesting $216,000 (General Fund and reimbursements) and 2.0 positions to more effectively manage cash and generate additional special fund and General Fund earnings The specific requests are as follows:

   - BCP #3 increases reimbursement authority by $90,000, increases General Fund by $18,000, and adds 1.0 position (two-year limited-term) to research and validate disbursement data to increase the reliability of the cash forecast, the results of which would be better investment decisions and hence, higher investment returns (increased annual earnings of $6 million General Fund and $24 million other funds).
   - BCP #4 increases reimbursement authority by $45,000, increases General Fund by $63,000, and adds 1.0 position (two-year limited-term) to maximize the investment of surplus funds in a more-timely manner through the faster collection of payments. The goal is to enroll 20-30 agencies per year in new electronic funds programs to reduce processing fees and increase investment earnings. (the General Fund benefit is estimated at $300,000, growing to $2.5 million over several years).

   Staff Recommendation: Approve all the consent / vote only issues.

Action: Approved all issues on the consent / vote-only list on a 2 – 0 vote.

Issues Proposed for Discussion and Vote:

3. **Local Agency Investment Fund (LAIF) Position (BCP #2).** The State Treasurer's Office requests $108,000 and 1.0 position to improve investment service and address increased workload for local governments who voluntarily choose to deposit their temporarily idle monies with the Treasurer for investment purposes. The local funds are commingled with the State's idle cash balances and invested in the Pooled Money Investment Account (PMIA). About $19.5 billion was held in the LAIF in 2006-07.

   Staff Comment: The Treasurer's Office indicates that pooling the monies results in a higher rate of return for the local funds as well as State special funds and the State General Fund. No estimate of increased earnings is included in the request; however, the Treasurer's staff indicate that this request would pay for itself with increased earnings.

   Staff Recommendation: Approve this request.

   Action: Approved request on a 2 – 0 vote.

4. **Cash Management for State Departments (BCP #2).** The State Treasurer's Office requests $210,000 and 3.0 positions to increase their reimbursement authority to tie to new interagency agreements signed with the Department of Social Services and the Department of Public Health. The increase is driven by a workload increase from the contracting department, not a fee increase by the Treasurer. The Department of Social Services contracts with the STO to process transactions for their In-Home Support Services (IHSS) Program, which will have transaction growth of 7 percent from FY 2006-07 to FY 2008-09. The Department of Public Health contracts with the STO for redeeming and reconciling all checks, warrants and Women, Infant and Children (WIC) Food Instruments. The WIC workload is up because a recent change in federal law allows WIC recipients to purchase WIC qualified items at any grocer whereas, prior to the change, recipients were required to present WIC items only to designated grocers.

   Staff Comment: The Treasurer's Office indicates that if the request is denied, they will have to add more temporary help and increase overtime to address the workload. Additionally, if requirements are not met for the federal WIC program there is a risk of federal sanctions.

   Staff Recommendation: Approve this request.

   Action: Approved request on a 2 – 0 vote.

5. **IT Division Staff Augmentation (BCP #1).** The State Treasurer's Office requests $269,000 and 2.5 information-technology positions to support new/increased workload for the STO, as well as workload for the Boards/Commissions/Authorities associated with the STO. The 2.5 new positions would be tasked as follows: (1) one Staff Information Systems Analyst to assist the existing position that supports the STO website; (2) one Staff Programmer Analyst to address the increasing number of requests from Boards/Commissions/Authorities with the development of new applications and enhancements; and (3) one-half System Software Specialist position to assist the Network Architect and the Security Architect with day-to-day maintenance and support of the network and security architectures as well as the implementation of new network/security strategies, polices, and projects.

   Staff Comment: This request is funded by reimbursements from the Boards/Commissions/Authorities, as well as reimbursements from State departments and local government. On the margin, this request could put additional pressure on those State and local entities that are suffering from General Fund or other reductions. Given this, the Subcommittee may want to consider rejection of this request without prejudice to reconsideration in a future year when the State budget situation is not so constrained.

   Staff Recommendation: Reject this request.

   Action: Approved request on a 2 – 0 vote.

6. **General Fund Budget Reduction (Governor's Budget and April Finance Letter).** The Governor's Budget includes a 10-percent unallocated reduction ($715,000) to the General Fund component of the STO budget. The April Finance letter requests budget changes related to how the Treasurer would implement the proposed reduction.

Staff Comment: As outlined in the April Finance Letter, the STO would transfer the Vault Services Section (VSS) from the Cash Management Division (CMD) to the Securities Management Division (SMD) where staff could consolidate some activities to create efficiencies. A net of 5 General Fund positions would be eliminated with 2.0 positions shifted to reimbursements. Also included is an $184,000 cut to the operating expense budget.

Staff Recommendation: Approve this request.

Action: Approved request on a 2 – 0 vote.

0956 California Debt & Investment Advisory Commission

The mission of the California Debt and Investment Advisory Commission is to promote and improve the practice of public finance in California by providing responsive and reliable information, education, and advice. The Commission assists state and local governments by providing education and information related to the effective and efficient issuance, monitoring, and management of public debt and prudent and safe investment of public funds. The proposed budget for the Commission is $2.6 million (special fund and reimbursements) and 17.0 positions, an increase of $247,000 and 3.0 positions. No budget change proposals were submitted for the Committee.

Issues Proposed for Discussion and Vote:

1. **IT Data Collection and Analysis Unit (BCP #1).** The Commission requests 1.0 new Associate Program Specialist position to be funded through redirection of existing budget authority and requests 1.0 new Staff Services Manager position to be funded from a budget augmentation of $127,000. Additionally, $40,000 is requested for an IT contract with the Treasurer's Office associated with STO BCP #1 (see issue 5 above). The positions would improve the reliability and consistency of the municipal debt issuance data that CDIAC compiles.

   Staff Comment: On the margin, this request could put additional pressure on those local entities that are suffering from General Fund or other reductions. The Subcommittee may alternatively want to consider rejecting the new funding, but allowing the Commission to add 1.0 position through redirection of existing budget authority.

   Staff Recommendation: Reject the requested budget augmentation, but allow the addition of 1.0 new position to be funded within existing budget authority.

   Action: Approved request on a 2 – 0 vote.

2. **Shift Contractor Work to State Staff – Graphic Designer (BCP #2).** The Commission requests the establishment of a new Graphic Designer position. The position would be <u>entirely funded within existing budget authority</u> by shifting operating expenses funding to personnel services funding. The position would develop and produce graphic design work for all of the Commission's written products.

   Staff Comment: Since the Commission's role is educational and advisory, it may make sense to have an in-house Graphic Designer, versus contracting out.

   Staff Recommendation: Approve the request.

   Action: Approved request on a 2 – 0 vote.

3. **Educational Seminars / Workshops (BCP #4).** The Commission requests a $50,000 increase in reimbursement authority to increase capacity and the number of events for educational seminars/workshops. The Commission indicates it currently has to turn away about 30 percent of requests for seminars/workshops due to the full expenditure of its reimbursement authority.

   Staff Comment: The Commission's primary role is educational and advisory. The cost of the educational seminars/workshops is funded by attendees, and attendance is discretionary for local governments.

   Staff Recommendation: Approve the request.

   Action: Approved request on a 2 – 0 vote.

0968 California Tax Credit Allocation Committee

The mission of the Tax Credit Allocation Committee is to form public/private partnerships to assist in the development and maintenance of quality rental housing communities affordable to low-income Californians. The January Governor's Budget for the Committee is $4.0 million (various special funds) and 29.0 positions, a decrease of $218,000 and no change in positions.

Issue Proposed for Discussion and Vote:

1. **Compliance Monitoring Staff and Contracts (April Finance Letter).** The Tax Credit Allocation Committee requests $674,000 (special fund) and 4.0 positions to allow the Committee to meet monitoring requirements mandated by the federal Internal Revenue Code. The budget request of $674,000 includes $449,000 for contractors and assumes only 2.0 of the 4.0 new State positions are staffed in 2008-09. The Administration indicates that federal law requires the State to complete an on-site physical inspection of each property within two years following the year that the last building was placed into service, and then re-inspect each property at least once every three years thereafter. Currently, there are nearly 2,000 properties that are subject to these requirements, and that number is growing by about 100 per year.

   Staff Comment: The April Finance Letter indicates that denial of this request will cause a failure to meet basic federal compliance monitoring requirements and this could eventually result in the denial of future federal tax credits.

   Staff Recommendation: Approve the request.

   Action: Approved request on a 2 – 0 vote.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

PART B

Wednesday, April 9, 2008
9:30 a.m.
Room 113

(Consultant: Keely Martin Bosler)

State Administration—General Government—Judiciary—Transportation

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

0855 Gambling Control Commission

Background. The California Gambling Control Commission (GCC) is the primary state agency that regulates and licenses personnel and operations of the state's gambling industry. The commission regulates 55 tribal casinos and more than 100 gambling establishments and cardrooms.

Governor's Budget. The Governor's budget proposes $110.4 million to support the GCC in the budget year. This is a slight decrease from estimated expenditures in the current year due to reductions in local grants and subventions.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Commission	$115,244	$110,388	-$4,856	-4.2
Total	$115,244	$110,388	-$4,856	-4.2
Funding Source				
Indian Gaming Special Distribution Fund	$8,502	$10,422	$1,920	22.6
Gambling Control Fund	2,985	3,466	481	16.1
Budget Total	*11,487*	*13,888*	*2,401*	*20.9*
Indian Gaming Rev Share Trust Fund	103,757	96,500	-7,257	-7.0
Total	$115,244	$110,388	-$4,856	-4.2

1. Tribal Gaming Revenues

Background. There are currently 56 tribes that operate 57 casinos with Class III games in California. Class III games are commonly referred to as Nevada-style games, which include slot machines, electronic games of chance, and many banked card games like blackjack. These casinos operate under tribal-state compacts negotiated by the Governor and ratified by the State Legislature. Proposition 1A amended the State Constitution in 2000 to authorize federally recognized Indian tribes to operate certain type of gambling on Indian lands subject to compacts negotiated by the Governor and ratified by the Legislature.

The Legislature has ratified compacts with 67 tribes since the passage of Proposition 1A. These compacts result in payments by the tribes to various state accounts.

In 2007, the Governor negotiated and the Legislature ratified amended compacts with five tribes. The proposed amended compacts are as follows:

- Agua Caliente Band of Cahuilla Indians – 5,000 Class III machines in Riverside County.
- Morongo Band of Mission Indians – 7,500 Class III machines in Riverside County.
- Pechanga Band of Luiseno Indians – 7,500 Class III machines in Riverside County.
- San Manuel Band of Mission Indians – 7,500 Class III machines in San Bernardino County.
- Sycuan Band of the Kumeyaay Nation – 5,000 Class III machines in San Diego County.

The Governor also proposed and the Legislature approved one new compact with the Yurok Tribe of the Yurok Reservation to add 99 Class III machines in Del Norte and Humboldt Counties.

There were four propositions on the February 2008 ballot to approve the 2007 amendments made to the tribal compacts for the Pechanga, Morongo, Sycuan, and Agua Caliente tribes. All of these propositions were passed by the voters.

Governor's Budget. The Governor's budget includes the following revenues from the tribal-state compacts:

- General Fund - $430.4 million, including $396.8 million from the new compacts.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) – Approximately $40 million to pay $1.1 million per year to each non-compact tribe.
- Indian Gaming Special Distribution Fund (SDF) - $49 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - $100 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

LAO Recommends More Transparency for Tribal Gaming Revenues. The LAO recommends that the Legislature request the Administration to display tribal revenues as its own line item. The LAO finds that tribal revenues are a growing source of revenue for the state and that the recent debates concerning the propositions on the ballot in February 2008 show that there is significant public interest in knowing how much revenue the tribes are paying the state. The Department of Finance has reported that it agrees with the LAO's recommendation and plans to track tribal revenues separately in the future.

Staff Recommendation. Staff recommends that the Subcommittee request DOF to track tribal revenues separately to improve transparency of this revenue source.

2. Revenue Sharing Trust Fund

Background. In 1999, the Governor and 58 tribes reached agreements on casino compacts and the Legislature passed a law approving them. Under the 1999 compacts, tribes acquire and maintain slot machine licenses by paying into the Revenue Sharing Trust Fund (RSTF), an account administered by the GCC that makes payments to non-compact tribes. Under current law, the annual payments to non-compact tribes total $1.1 million for each tribe.

Since its inception, however, the RSTF has lacked sufficient funds to cover the costs of these payments. In prior years, the Legislature has appropriated funds to cure the shortfall from the Special Distribution Fund, which is another account that receives payments from the 1999 compact tribes. Legislation (Chapter 858, Statutes of 2003 [SB 621, Battin]) enacted in 2003 specifies that funding the RSTF shortfall is the first priority use of SDF funds, followed in descending order by the other allowed uses of SDF funds: problem gambling prevention programs, casino regulatory costs of GCC and the Department of Justice, and grants to local governments affected by tribal casinos.

The five compacts amended in 2007 will significantly reduce payments to the SDF. These five tribes will now end payments to the SDF and will instead make payments directly to the state. However, each of these compacts contains provisions to protect the distributions to the non-compact tribes. Four of the compacts provide that "if it is determined that there is an insufficient amount in the RSTF" the GCC must direct a portion of the four tribes' payments to the state to the RSTF in order to cure this deficiency.

Governor's Budget. The Governor's budget assumes that the GCC has triggered the provision in the four recently amended compacts that requires the GCC to direct a portion of the four tribes' payments to the state to the RSTF to cure a shortfall in the RSTF. The Governor's budget assumes that the shortfall in the RSTF will be $40 million in the budget year. The SDF is projected to end the budget year with a reserve of $197 million.

LAO Finds Governor's Proposal Ignores Current Law. The LAO finds that the Governor's proposal to address the projected shortfall in the RSTF ignores current law that requires the first priority use for SDF funds is to cure the RSTF shortfall. The LAO recommends that $40 million be transferred from the SDF to the RSTF, which will increase tribal gaming revenues to the state by $40 million. While the SDF is projected to end the budget year with a reserve, this action would result in an operating deficit for the SDF. Nevertheless, the LAO finds that the current state budget situation warrants using the SDF reserves instead of the General Fund.

The LAO recommends budget bill language to authorize the Department of Finance to order a transfer from the SDF to the RSTF of up to $50 million in case the shortfall in the RSTF increases. The LAO also recommends additional budget bill language to: (1) specify that any portion of the $50 million not needed to cure the RSTF shortfall remain in the SDF and (2) ensure the General Fund transfer envisioned in the four tribes' compacts will not be triggered.

Staff Recommendation. Staff recommends that the Subcommittee:

- Adopt the LAO recommendation to use SDF revenues to cure the RSTF instead of the tribal gaming revenues that would flow directly to the state. This will increase General Fund revenues by $40 million.
- Adopt LAO recommended budget bill language to authorize the Department of Finance to order a transfer from the SDF to the RSTF of up to $50 million.

- Adopt LAO recommended budget bill language to specify that any portion of the $50 million not needed to cure the RSTF shortfall remain in the SDF.
- Adopt LAO recommended budget bill language to ensure the General Fund transfer envisioned in the four tribes' compacts will not be triggered in the budget year.

3. Local Mitigation – Informational Item

Background. The fourth priority for expenditures from the SDF is to provide grants to local governments affected by tribal casino operations. The 2007-08 budget sent to Governor contained $30 million for grants to local governments by tribal casinos, but these funds were vetoed by the Governor citing a recent Bureau of State Audits (BSA) report that was critical of how these grants had been expended in prior years.

The July 2007 BSA audit criticized some local government allocations of SDF grant dollars, finding that some funds were given to "projects that have no direct relationship to casinos." Furthermore, the five compacts amended in 2007 now require the tribes to negotiate directly with counties and cities concerning environmental and public service effects of casino construction and expansion. The BSA made several recommendations to the Legislature in this report, including amendments to the law to: (1) ensure grants were spent only to "directly mitigate the adverse impacts of casinos" and (2) revise the grant allocation methodology "so that the allocation to counties is based only on the number of devices operated by tribes that do not negotiate directly with local governments to mitigate casino impacts."

Governor's Budget. The Governor's budget does not include funding for local grants from the SDF in the budget year.

LAO Recommendation. The LAO concurs with the two key recommendations made by the Auditor in the July 2007 BSA audit and recommends that the Legislature modify existing law before allocating any new grant funds to local governments for casino mitigation. Furthermore, the LAO notes that if these recommendations are implemented, the amount of grant funds could be lowered because under the recently amended compacts local governments can negotiate directly with the tribes for mitigation related to the casinos.

Staff Comments. As mentioned above in the discussion on the RSTF, the SDF is facing a structural deficit resulting from the compacts that were amended in 2007. While the fund does have some reserves, they will be significantly diminished over the next few years just fulfilling the projected shortfalls in the RSTF. Current law requires that payments to non-compact tribes from the RSTF are the highest priority expenditure for SDF revenues. Therefore, committing the SDF further by allocating additional local government grants could further exacerbate the SDF structural deficit and reduce tribal revenues to the General Fund.

4. Inspection Program

Background. The 2006-07 Budget Act contained a significant increase to the commission's regulatory staff. Positions to support an electronic gaming device inspection program were approved on a limited-term basis. Furthermore, as part of the 2007-08 budget deliberations the Legislature approved supplemental report language to evaluate the performance of the GCC's slot machine inspection and testing program. This report was due to the Legislature on March 1, 2008, but has not been received to date.

Governor's Budget. The Governor's budget proposal includes $1 million ongoing from the Special Distribution Fund to support the conversion of eight limited-term positions into permanent positions to support an electronic gaming device inspection program.

LAO Recommendation. The LAO has withheld recommendation on this budget proposal pending receipt of the report requested by the Legislature in 2007.

Staff Comments. Staff notes that these positions would be funded from the SDF, which is facing a structural deficit. Current law states that these expenditures are the third priority expenditures for SDF revenues. However, given the significant decline in projected revenues to the SDF due to the five compacts amended in 2007, these expenditures could ultimately lower the tribal revenues to the General Fund. Nevertheless, a robust inspection program could ensure fair pay-outs and revenues to the state.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal pending justification of the effectiveness of the commission's inspection program.

5. Licensing Workload

Background. The Licensing Division at the GCC is responsible for registering and/or licensing Third Party Providers of Proposition Player Services, gambling equipment manufacturers and distributors, resource suppliers and vendors, issuing work permits, and processing and reviewing initial and renewal applications for finding of suitability for tribal key or resource supplier and vendor employees.

Governor's Budget. The Governor's budget proposal includes two proposals to increase staffing for the commission's licensing division. The combined affect of these proposals would be an augmentation of $726,000 ($682,000 from the SDF and $44,000 from the Gambling Control Fund) to support 7.3 new positions. The proposals include the following:

- **New Compacts –** 2.3 new positions to support increased workload in the licensing division associated with the implementation of the five compacts amended in 2007 that significantly expand the existing casino operations of these tribes.
- **General Increase –** 5 new positions to support increases in the volume of applications for finding of suitability for tribal key or resource supplier and vendor employees.

Staff Comments. The GCC has reported to staff that there is currently no backlog of applications in the licensing division. However, staff notes that with the expansion of casino operations there will likely be an increase in applications that need processed by the Licensing Division.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal given the budget situation.

1690 Alfred E. Alquist Seismic Safety Commission

Background. The Seismic Safety Commission is the primary state agency responsible for reducing earthquake risk to life and property. The Commission investigates earthquakes, researches earthquake-related issues and reports, and recommends to the Governor and Legislature policies and programs needed to reduce earthquake risk. Legislation (SB 1278, Alquist) enacted in 2006, renamed, in memoriam, the Seismic Safety Commission to the Alfred E. Alquist Seismic Safety Commission and moved it under the purview of the State and Consumer Services Agency.

Governor's Budget. The Governor's budget proposal includes $3.4 million from special funds for the support of the Commission. This is about the same level of funding as estimated expenditures in the current year.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Commission	$3,343	$3,391	$48	1.4
Total	$3,343	$3,391	$48	1.4
Funding Source				
Special Funds	$1,266	$1,312	$46	3.6
Budget Total	*1,266*	*1,312*	*46*	*3.6*
Reimbursements	77	79	2	2.6
Special Deposit Fund	2,000	2,000	0	0.0
Total	$3,343	$3,391	$48	1.4

1. Update on Grant Program—Informational Item

Background. The California Research Assistance Fund (CRAF) is a nonprofit corporation that was incorporated in the 1990s and was funded from settlements between the Department of Insurance and insurance companies after the Northridge earthquake. The Attorney General filed a lawsuit against CRAF in 2000 to freeze CRAF's remaining funds and dissolve the corporation. The parties entered into a stipulated judgment whereby CRAF would dissolve and all of its assets would be distributed to the Seismic Safety Commission. Approximately $6.5 million will be transferred to the commission over several years to fund grants on research topics from the Commission's Earthquake Research Plan.

Governor's Budget. The Governor proposes to allocate an additional $2 million in special funds for grants to fund research topics selected from the Commission's Earthquake Research Plan.

Current Status. The Commission has established a Program Monitoring Committee to oversee the grant program. The Attorney General is on this committee, along with the commission members, researchers, and engineers. The department indicates that it is currently working on six contracts with various partners for research and education efforts related to seismic safety. Some of the efforts the commission is working on include a Tall Building Initiative that will evaluate the performance of Field Act buildings and the effects of seismic retrofit. The commission is also pursuing research and education on the risk of tsunami events and joining the Art Center College of Design on an education effort related to responding to disasters. Finally, the commission is also joining the preparedness survey efforts by the Office of Emergency Services and is working with utilities on a comparative study of lifeline services in the event of a disaster.

Staff Recommendation. No action is required as this is an informational item.

8830 California Law Revision Commission

Background. The California Law Revision Commission (CLRC) was given the responsibility for substantive review of California statutory and decisional law. The Commission studies the law in order to discover defects and anachronisms and recommends legislation to make needed reforms. The Commission studies topics that have been authorized by the Legislature.

The Commission consists of the following members:
- A Senator appointed by the Rules Committee
- An Assembly Member appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

Governor's Budget. The Governor's budget proposal includes $677,000 to support the CLRC in 2008-09. This is about $70,000 less than is estimated for expenditure in the current year. This is a result of the Governor's 10 percent budget balancing reduction. The only augmentation made to the CLRC's budget before the budget balancing reduction was taken was funding to support employee compensation adjustments.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Commission	$747	$751	$4	0.5
Subtotal	$747	$751	$4	0.5
Funding Source				
General Fund	$732	$736	$4	0.5
Budget Total	*732*	*736*	*4*	*0.5*
Reimbursements	15	15	0	0.0
Subtotal	$747	$751	$4	0.5
Budget Balancing Reduction	0	-74	-74	0.0
Total	$747	$677	-$70	-9.4

Budget Balancing Reduction. The CLRC has indicated to staff that it will reduce out of state travel, consolidate office space, forego some computer and software upgrades, and take additional measures to economize its resources to meet the reduction target set by the Governor.

The CLRC indicates that if budget reductions of this level are continued into the next fiscal year they may have to eliminate positions at the commission.

Current Study Topics. The CLRC is actively working on the following topics in 2008:

- **Reorganization of Weapon Statutes**. Pursuant to Chapter 128, Statutes of 2006 (ACR 73, McCarthy) the commission will study, report on, and prepare recommended legislation to simplify and reorganize the portions of the Penal Code relating to the control of deadly weapons.
- **Donative Transfer Restrictions**. Pursuant to Chapter 215, Statutes of 2006 (AB 2034, Spitzer) the commission will study the operation and effectiveness of the provisions of the Probate Code restricting donative transfers to certain classes of individuals.
- **Attorney-Client Privilege after Client's Death.** Pursuant to Chapter 388, Statutes of 2007 (AB 403, Tran) the commission will study the issue of whether and, if so, under what circumstances, the attorney-client privilege should survive the death of the client.
- **Common Interest Development Law.** The commission will continue to review statutes affecting common interest housing developments with the goal of setting clear, consistent, and unified policy regarding their formation and management and the transaction of real property interests located within them. (Common interest developments are a type of housing development that combines individual ownership of private dwellings with shared ownership of common facilities.)

Implementing CLRC Recommendations. There are nine pieces of legislation pending in the Legislature to implement recommendations from recent CLRC studies. The following is a description of the legislation that is currently being considered by the Legislature:

- AB 250 (DeVore) – Creation of a new non-probate property transfer instrument called the "Revocable Transfer of Death Deed", which could be effective upon death of the transferor.
- AB 567 (Saldana) – Establishes the Office of the Common Interest Development Bureau as a pilot project within the Department of Consumer Affairs to provide education, dispute resolution, data collection, and abatement of violations of the law in common interest developments.
- AB 1921 (Saldana) – Makes additional changes to state law related to common interest developments.
- AB 2166 (Tran) – Makes clarifications to current law related to the jurisdiction of bail forfeiture. This is one of several law changes resulting from CLRC's work on trial court restructuring.
- AB 2193 (Tran) – Establishes the Interstate and International Depositions and Discovery Act which clarifies and refines the procedures for obtaining discovery from a witness in this state for purposes of a case pending in an out-of-state jurisdiction. California courts currently vary widely in how they handle these matters and this legislation will provide guidance on the applicable procedures in these instances.
- AB 2299 (Silva) – Makes numerous technical changes to current law to modernize existing references to audio or video recording. These revisions would thereby allow for use of existing digital recording technology.

- SB 1182 (Ackerman) – Makes various changes to amend or delete statutes made obsolete by trial court restructuring. The focus of this legislation is the transfer of cases based on lack of jurisdiction.
- SB 1264 (Harman) – Makes various changes to no contest clauses in relation to wills, trusts, and other instruments. No contest clauses are provisions of these instruments that penalize beneficiaries if the beneficiaries file a contest with the court.
- SB 1691 (Lowenthal) – This legislation makes various changes to Mechanics Lien Law.

Staff Recommendation. Staff recommends that the Subcommittee;

- Approve the CLRC's budget.
- Approve a $74,000 reduction (equivalent to the Governor's budget balancing reduction) to CLRC's budget.

8840 California Commission on Uniform State Laws

Background. In conjunction with other states, the commission drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws (CUSL) for adoption by the various states. The Commission is composed of the following members: a member of the Senate, a member of the Assembly, six appointees of the Governor, the Legislative Counsel, and two other life-time members. The Legislative Counsel serves as the unofficial executive officer of this commission. The commission generally meets twice annually, once in December and once in July for the national meeting.

Governor's Budget. The Governor's budget proposal includes $148,000 for the CUSL in 2008-09. This is approximately the same level of funding as is estimated for expenditure in the current year due to an increase in the dues to the National Conference of Commissioners on Uniform State Laws that is offset by the Governor's 10 percent budget balancing reduction.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Commission	$149	$165	$16	10.7
Total	$149	$165	$16	10.7
Funding Source				
General Fund	$149	$165	$16	10.7
Budget Total	*149*	*165*	*16*	*10.7*
Reimbursements	0	0	0	0.0
Total	$149	$165	$16	10.7
Budget Balancing Reduction	0	-17	-17	0.0
Total	$149	$148	-$1	-0.7

Budget Balancing Reduction. The CUSL has indicated to staff that it plans to absorb the reduction by working with the National Conference to reduce its dues, which are currently $144,000. The Commission also plans to limit travel to the annual meeting to those commissioners whose attendance is required because they sit on a drafting committee of a uniform act that is up for reading at the meeting or participate in a standing committee of the conference that holds meetings during the annual meeting.

Staff Recommendation. Staff recommends that the Subcommittee;

- Approve the CUSL budget.
- Approve a $17,000 reduction (equivalent to the Governor's budget balancing reduction) to CUSL's budget.

8140 State Public Defender

Background. The Office of the State Public Defender (OSPD) was originally created to represent indigent criminal defendants on appeal. However, since 1990, the mandate of the office has been refocused to death penalty cases. The primary focus of the OSPD is to represent defendants in post capital conviction appeals. The Office has handled habeas corpus appeals in the past, but at present focuses primarily on appeals.

Governor's Budget. The Governor's budget proposal includes $11 million to support the OSPD. This is over $600,000 or 5 percent less than estimated expenditures in 2007-08. This reduction is the result of the Governor's 10 percent across-the-board budget balancing reduction which is offset by an increase in lease costs for the OSPD. The OSPD budget for 2008-09 includes virtually no adjustments for employee compensation.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
State Public Defender	$11,956	$12,142	$186	1.6
Subtotal	$11,956	$12,142	$186	1.6
Funding Source				
General Fund	$11,956	$12,142	$186	1.6
Budget Total	*11,956*	*12,142*	*186*	*1.6*
Federal Trust Fund	0	0	0	0.0
Subtotal	$11,956	$12,142	$186	1.6
Budget Balancing Reduction	-405	-1,214	-809	0.0
Total	$11,551	$10,928	-$623	-5.4

Current Workload. The OSPD currently has 127 appeal cases and 18 legacy habeas corpus cases. The OSPD reports that there are currently 80 sentenced individuals on death row that have no lawyer for the appeals process. There are about 220 inmates on death row that have an appeals lawyer, but no lawyer to represent them in their habeas corpus appeal.

1. General Budget Support

Budget Balancing Reductions. The Governor has proposed that the OSPD take a budget balancing reduction in both the current year and the budget year. The Legislature approved the Governor's proposed budget balancing reduction for the current year as part of Chapter 1 3x, Statutes of 2008 (AB 3, Budget) that was enacted in February 2008. This level of reduction requires the OSPD to hold 9.5 positions (6.5 attorney positions) vacant for the rest of the current year for savings of $249,000. It also requires OSPD to make a $156,000 reduction to its operating expenses in the current year. This significantly reduces the resources available for litigation expenditures in the remainder of the current year since over two-thirds ($1.5 million) of the office's operating expenses are for fixed costs (rents, information technology licenses, etc.). Therefore, the Office reports that this reduction will likely impact the quality of their representation.

The budget balancing reductions proposed for the budget year require OSPD to eliminate the 9.5 positions (6.6 attorney positions) it is holding vacant in the current year. This will reduce the ability of the OSPD to take additional capital conviction appeals cases and will increase the backlog of capital conviction appeals. Eliminating the vacancies will reduce personnel services by $912,000. Therefore, the department will have to reduce approximately $302,000 from its operating expenses to meet the $1.2 million target in the budget year. This would require the OSPD to cut into its fixed costs and eliminate nearly all litigation support for capital conviction cases. The OSPD indicates that it would likely have to start the lay-off process to reach this level of savings in the budget year.

Governor's Budget. The Governor's budget proposal includes $170,000 from the General Fund to support the increased costs of leasing both the OSPD's Sacramento and San Francisco offices. The OSPD leases privately-owned space in both locations and lease costs in both locations have increased approximately 20 percent over the last five years.

Compounding Reductions to OSPD Impact Capital Appeals Process. Staff finds that since 1999-00 the OSPD has lost 41 positions (18 attorney positions). The Governor's budget balancing reduction will eliminate another 9.5 positions (6.6 attorney positions). These staff reductions have seriously hampered the ability of the OSPD to take additional capital appeals cases. Over the same time period, over 150 persons (19 per year) have been sentenced to death resulting in a growing backlog of individuals on death row that have no attorney representation. The OSPD estimates that there are currently 80 sentenced individuals on death row that have no attorney representation.

The OSPD estimates that sentenced individuals on death row wait an average of 5 years to have an appeals attorney appointed and about 10 years to have a habeas corpus attorney appointed. This wait impacts the quality of the appeals process because as time goes by evidence is lost, witnesses die, and other facts related to the original case are lost. This wait will continue to grow if the Governor's budget balancing reductions are implemented.

Reductions Have Unintended Consequences. The Governor's budget balancing reductions would completely eliminate all salary savings, including the 5 percent that is standard practice in state budgeting. This means that the OSPD may have to pursue a lay-off process and be forced to further reduce their already low support staff ratio. Currently, OSPD has one legal secretary for every 11 attorneys. This is significantly below the rate at the DOJ (one legal secretary for every four attorneys), which means that presently attorney productivity is hampered by limited support resources. The Governor's budget balancing reductions would further exacerbate this problem.

Furthermore, staff finds that the Governor's budget balancing reductions would also completely eliminate the ability of the OSPD to contract for expertise and other services (including interpreter services) in their efforts to represent their clients. This would impact the OSPD's ability to competently represent its existing clients.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget change proposal to fund the lease increases.
- Reduce the OSPD by $591,000 in the budget, thereby restoring $623,000. This will keep the OSPD at its 2007-08 budget level. This will allow OSPD to maintain some salary savings, backfill some vacancies, and contract for limited services.

0280 Commission on Judicial Performance

Background. The Commission on Judicial Performance is an independent agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to the California Constitution. The Commission is composed of 11 members: three judges appointed by the Supreme Court; two attorneys appointed by the Governor; and six lay citizens, of whom two are appointed by the Governor, two are appointed by the Senate Committee on Rules, and two are appointed by the Speaker of the Assembly.

Governor's Budget. The Governor's budget includes $4.1 million from the General Fund to support the Commission in the budget year. This is $422,000 and 9 percent less than estimated expenditures in the current year. This reduction is due to the Governor's across-the-board budget balancing reduction proposal.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Commission	$4,495	$4,526	$31	0.7
Total	$4,495	$4,526	$31	0.7
Funding Source				
General Fund	$4,496	$4,527	$31	0.7
Budget Total	*4,496*	*4,527*	*31*	*0.7*
Judicial Branch Workers' Comp Fund	-1	-1	0	0.0
Total	$4,495	$4,526	$31	0.7
Budget Balancing Reduction	0	-453	-453	0.0
Total	$4,495	$4,073	-$422	-9.4

Current Workload. The 2007 Annual Report for the Commission on Judicial Performance reported that in 2007 it considered 1,077 new complaints that named 812 different judges. The Commission also received 148 complaints about subordinate judicial officers and two complaints about State Bar Court judges.

During 2007 the Commission issued three orders of removal, one public censure, five public admonishments, nine private admonishments, and 20 advisory letters to judges. The Commission also disciplined two subordinate judicial officers.

Budget Balancing Reductions. The Commission estimates that the only way they can meet the reduction target set by the Governor is to keep five positions (3 attorney positions) vacant. The Commission has indicated that under this scenario each attorney on staff will have to take on a larger caseload, which will result in less timely disciplinary investigations and proceedings. This assumes that there is no significant change in the number of complaints and investigations. The Commission has minimal operating expenses ($100,000) above its fixed costs (rent).

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget for the Commission on Judicial Performance.
- Approve the budget balancing reduction for the Commission on Judicial Performance.

0390 Contributions to the Judges' Retirement System

Background. The Judges' Retirement System (JRS) funds retirement benefits for California's Supreme, Appellate, and Trial Court Judges. Currently there are two systems, one for judges first appointed or elected before 1994 (JRS I) and one for judges first appointed or elected after November 9, 1994 (JRS II). Both of these systems are administered by the California Public Employees' Retirement System (CalPERS).

JRS I Overview. The JRS I system is funded by the following sources:
- Member contributions statutorily set at 8 percent of salary.
- Employer contributions statutorily set at 8 percent of salary.

This plan is a "pay as you go" system and member and employer contributions and interest earnings are insufficient to pre-fund this plan. Therefore, current law requires additional contributions from the General Fund to make up the difference between existing contributions and the required benefit payments to retired judges.

This plan currently has 755 active and inactive members and is paying benefits to 1,720 retirees, survivors, and beneficiaries.

The maximum service retirement formula is 75 percent of active judicial salaries with 20 years of service at age 60. The minimum vesting requirement is five years of service. Retired judges in the JRS I system continue to receive annual increases to their retirement benefits that are commensurate with the increase provided to active judges.

JRS II Overview. The JRS II system is funded by the following sources:
- Member contributions statutorily set at 8 percent of salary.
- Employer contributions based on an actuarial valuation that is currently 19.9 percent.

This plan currently has 941 active members and is paying benefits to 10 retirees, survivors, and beneficiaries.

The maximum defined benefit service retirement formula is 75 percent of the average monthly salary during the last 12 months on the bench with 20 years of service at age 65. The minimum vesting requirement is five years of service.

Current Year Deficiency. A Finance Letter (dated January 9, 2008) was received from the Department of Finance (DOF) requesting approval of deficiency funding from Item 9840 to fund a current year shortfall in the Judges' Retirement Fund. The DOF estimates that the shortfall is approximately $12.9 million in 2007-08. This increase is a direct result of a revised estimate of the average percentage salary increase for the current fiscal year for all California state employees. The appropriation to fund this deficiency is currently contained in SB 1068 (Budget) and is pending action in the Senate.

Governor's Budget. The Governor's budget proposal includes $417 million ($228 million General Fund) to support the two judges' retirement systems in the budget year. The budget estimates that $178 million from the General Fund will be needed to make up the difference between existing contributions and the actual benefit payments for JRS I in the budget year. Increased benefit payments from JRS I are driving the need for additional General Fund monies and are up about 17 percent over estimated current year levels.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
State Operations	$3,364	$3,486	$122	3.6
Local Assistance	191,111	224,848	33,737	17.7
Unclassified	183,085	188,741	5,656	3.1
Total	$377,560	$417,075	$39,515	10.5
Funding Source				
General Fund	$194,475	$228,334	$33,859	17.4
Budget Total	*194,475*	*228,334*	*33,859*	*17.4*
Judges' Retirement Fund	182,047	187,508	5,461	3.0
Judges' Retirement System II Fund	1,038	1,233	195	18.8
Total	$377,560	$417,075	$39,515	10.5

JRS I Costs Will Continue to Soar. The significant General Fund increase for the Judges' Retirement System is being driven by increased payments to judges retiring under the JRS I system. These large increases are likely to continue for the next five years or so, as judges in the JRS I system continue to retire at a faster rate. Since retirement payments under JRS I continue to grow with active judges' salaries, the General Fund payments are being driven both by increases in the number of retiring judges under JRS I and salary increases for active judges.

Staff Comments. In order to avoid the deficiency faced by the Judges' Retirement Fund in the current year, the Administration has included a 3.25 percent increase to approximate the average annual salary increase of all California state employees in the budget year. There is some downside risk to this estimate given that 20 of 21 bargaining unit contracts will expire in the budget year. The Governor's budget assumes a reserve for the Judges' Retirement Fund that is equivalent to one-month of expenditures from the fund.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve as budgeted the Contributions to Judges' Retirement System.

0250 Judicial Branch

Background. The California Constitution vests California's judicial authority in a three part court system composed of the Supreme Court, the Courts of Appeal, and the Trial Courts (also referred to as Superior Courts). The budget for the Judicial Branch is divided between two main segments, the State Judiciary and the Trial Courts. The State Judiciary encompasses the activities of the following entities:

- **Judicial Council**—The Judicial Council of California administers the state's judicial system. The Administrative Office of the Courts is the administrative arm of the Judicial Council and oversees the Judicial Branch Facility Program.
- **Supreme Court—**The highest court in the state judicial system reviews legal questions of statewide importance and appeals of all death penalty judgments.
- **Courts of Appeal—**The six district Courts of Appeal hear appeals in all areas of civil and criminal law.
- **Habeas Corpus Resource Center—**This center provides legal representation for defendants in death penalty habeas corpus proceedings in the Supreme Court and in the federal courts.

The largest component of the budget for the Judicial Branch is local assistance for California's 58 Trial Courts (one in each county). Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle) shifted primary fiscal responsibility for these courts from the counties to the state. Under this law, the state now funds the Trial Courts above a fixed county contribution.

Additional legislation and a voter initiative have further reshaped the Trial Courts since 1998. Proposition 220, passed by the voters in 1998, unified the county's superior and municipal courts into a one-tier trial court system. Chapter 1010, Statutes of 2000 (SB 2140, Burton) gave the courts the status of independent employers, making Trial Court staff employees of the court. Finally, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), set up a framework to transfer the courthouses from the county to the state. The Judicial Branch is currently in the process of making these transfers and current law allows facilities to be transferred until the end of the 2006-07 fiscal year.

Governor's Budget. The Governor's budget proposes $3.7 billion to support the Judicial Branch, which is a slight decline from estimated expenditures in the current year. General Fund support for the Judicial Branch is $2.2 billion, which is slightly less than estimated expenditures in the current year. The slight reduction in the budget year is primarily due to the Governor's 10 percent across-the-board budget balancing reductions. The Governor proposes to make this reduction from a base budget for the Judicial Branch that includes the annual State Appropriations Limit adjustment for the trial courts.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Supreme Court	$45,453	$47,954	$2,501	5.5
Courts of Appeal	200,723	219,100	18,377	9.2
Judicial Council	130,859	143,956	13,097	10.0
Judicial Branch Facility Program	69,679	104,339	34,660	49.7
State Trial Court Funding	3,247,918	3,411,134	163,216	5.0
Habeas Corpus Resource Center	14,263	14,898	635	4.5
Total	$3,708,895	$3,941,381	$232,486	6.3
Funding Source				
General Fund	$2,236,316	$2,462,256	$225,940	10.1
Special Funds	1,402,119	1,403,996	1,877	0.1
Budget Total	*3,638,435*	*3,866,252*	*227,817*	*6.3*
Federal Trust Fund	7,043	8,239	1,196	17.0
Judicial Branch Workers' Comp Fund	2	2	0	0.0
Reimbursements	63,416	66,888	3,472	5.5
Total	$3,708,896	$3,941,381	$232,485	6.3
Budget Balancing Reduction	0	-245,944	-245,944	0.0
Total	$3,708,896	$3,695,437	-$13,459	-0.4

Budget Balancing Reduction. The Governor has proposed a 10 percent unallocated reduction to the Judicial Branch. The Administration has proposed that the courts themselves determine how this reduction would be achieved. The Administrative Office of the Courts (AOC) and the LAO note that a budget reduction of the size proposed buy the Governor would affect trial court operations, with civil cases disproportionately bearing the brunt of any delays in trials that resulted from a shortfall in available resources. That is because statutorily enforced time lines would force the judicial branch to give criminal cases higher priority in order to prevent the dismissal of charges against defendants. In addition, the AOC estimates that other services provided by the court would also be reduced or eliminated to accommodate an ongoing reduction of the level proposed in the Governor's budget.

A Finance Letter (dated April 1, 2008) requests a technical change to how the Department of Finance allocated the budget balancing reduction across the State Judiciary and the Trial Courts.

These technical changes have no impact on the amount of the budget balancing reduction to the Judicial Branch being proposed by the Governor.

Trial Courts

1. Trial Court Funding – SAL Growth Factor

Background. According to state law, the Trial Court Funding program is to receive annual budget increases equivalent to the year-over-year growth in the State Appropriations Limit (SAL). The trial courts receive SAL adjustments for their baseline operations, and these adjustments are to exclude funding provided for judicial officers. Specifically, the SAL statute applies the SAL growth rate annually to the following funding sources for the trial courts:

- Specified General Fund appropriations for the trial courts;
- Maintenance of Effort payments by the counties (set at $698,068,000 in statute);
- Historical state funding shift of revenues from the Trial Court Improvement Fund (fines and penalties) to the Trial Court Trust Fund to cover trial court operations (set at $31,563,000 in statute);
- Funding deposited in the Court Facility Trust Fund (county facility payments) for court facilities that have transferred to the state not less than two years earlier.
- Court filing fees and surcharges deposited into the Trial Court Trust Fund in the 2005-06 fiscal year (set at $369,672,000 in statute).

Governor's Budget. The Governor's budget proposal would provide the trial courts with SAL at a cost of $126.2 million General Fund. While the Governor's budget does technically provide the trial courts with the full SAL adjustment, the increase would be eliminated if the Governor's budget balancing reduction was enacted. The year-over-year change in the State Appropriations Limit for the budget year is 4.79 percent.

LAO Option to Suspend SAL. The LAO has identified an option for reducing the budget for the Judicial Branch to suspend, on a one-time basis, the SAL adjustment allocated to the trial courts. This option would result in ongoing savings to the state of $126 million that would grow marginally in future years.

The LAO notes that the trial courts currently have significant reserves and collectively trial courts are in strong financial condition. In a report submitted to the Legislature by the AOC, it was reported that revenue received by the 58 superior courts exceeded their expenditures in 2006-07 by $54 million. In addition, the total amount of assets held in reserve by the trial courts in 2006-07 totaled $590 million. (Of these reserves, $235 million were classified as being restricted by contractual or statutory obligations leaving $355 that were not obligated.) The LAO indicates that the trial courts could use their considerable reserves to buffer against the loss of state funding if the Legislature decided to suspend the SAL adjustment. The LAO notes that this action would likely force the trial courts to prioritize the use of its reserve funds and may impact or delay information technology projects and other projects planned by the trial courts to improve court operations.

AOC Budget Balancing Alternative. The AOC has provided another option for the Legislature to consider in meeting the reduction target set by the Governor. Under the AOC's scenario, the trial courts would be provided the full workload budget contained in the Governor's budget, including the full SAL adjustment. However, the funding to support the trial courts would come from the reserves held by the trial courts on a one-time basis. Under this scenario, the trial courts would continue to grow at the SAL rate, but would be funded with one-time reserve funds. Under this scenario, the Judicial Branch would not sustain an ongoing reduction to its operations.

The AOC is proposing that $167.5 million be redirected on a one-time basis from the trial court reserves to meet the General Fund reduction target set by the Governor. This is slightly more than the year-over-year trial court funding increase ($163 million) proposed by the Governor.

Staff Comments. Staff finds that the AOC's budget alternative is a one-time solution and does not help the Legislature address the structural imbalance in the state's budget. The LAO's option does result in ongoing savings, but it will likely result in real impacts to the Judicial Branch's operations.

The SAL template that the Judicial Council uses to allocate the SAL funding has not been received by staff to date. The AOC reports that it is still being developed. The AOC has indicated to staff that because trial court security was not fully funded in the current year they may have to allocate all of the equalization funds (funds that go to under-resourced courts) to fund this shortfall.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

2. New Trial Court Judgeships

Background. In 2006, the Governor proposed adding 150 judges over a three-year period. The Legislature approved 50 new judgeships in 2006 (Chapter 390, Statutes of 2006 [SB 56, Dunn]) and another 50 new judgeships in 2007 (Chapter 722, Statutes of 2007 [AB 159, Jones]).

The Judicial Council has approved a plan for allocating the first 50 judgeships and, to date, the Governor has appointed 40 of the new judges. The start date for the 10 judges that have not been appointed by the Governor was delayed to July 1, 2008, by special session legislation (Chapter 6xxx, Statutes of 2008 [AB 8, Budget]) enacted in February 2008. The allocation of the first 50 new judgeships and the status of the appointments are summarized in the following table:

County	Judges Allocated	Judges Appointed	County	Judges Allocated	Judges Appointed
Butte	1	0	Riverside	7	7
Contra Costa	1	1	Sacramento	5	5
Fresno	4	3	San Bernardino	8	8
Kern	2	2	San Joaquin	3	3
Los Angeles	2	2	Shasta	1	1
Madera	2	0	Solano	1	1
Merced	2	2	Sonoma	2	1
Monterey	1	1	Stanislaus	3	0
Orange	1	0	Tulare	2	2
Placer	1	1	Ventura	1	0

The Judicial Council has also approved the allocation of the second 50 new judgeships that were authorized in 2007. The start date for the second set of 50 new judgeships was delayed to June 1, 2009, by the same special session legislation that delayed the 10 judgeships authorized in 2006. The planned allocation for the second 50 judgeships is as follows:

- Contra Costa – 1
- Fresno – 3
- Humboldt – 1
- Kern – 2
- Los Angeles – 1
- Merced – 2
- Monterey – 1
- Orange – 2
- Placer – 2
- Riverside – 6
- Sacramento – 5
- San Bernardino – 7
- San Diego – 1
- San Joaquin – 3
- San Luis Obispo – 1
- Santa Cruz – 1
- Shasta – 1
- Solano – 2
- Sonoma – 1
- Stanislaus – 2
- Sutter – 1
- Tulare – 2
- Ventura – 1
- Yuba - 1

Chapter 722, Statutes of 2007 (AB 159, Jones) also authorized the conversion of 162 subordinate judicial officer positions to judgeships as the posts become vacant. This legislation capped the number of conversions that could occur in a single fiscal year to 16. The subordinate judicial officers eligible for conversion to judgeships are located in the following counties:

- Alameda – 6
- Contra Costa – 6
- El Dorado – 2
- Fresno – 3
- Imperial – 1
- Kern – 2
- Los Angeles – 78
- Marin – 2
- Merced – 2
- Napa – 1
- Orange – 14
- Placer – 1
- Riverside – 6
- Sacramento – 5
- San Diego – 7
- San Francisco – 9
- San Luis Obispo – 2
- San Mateo – 2
- Santa Barbara – 2
- Santa Cruz – 1
- Solano – 3
- Sonoma – 2
- Stanislaus – 1
- Tulare – 2
- Yolo - 2

Governor's Budget. The Governor's budget included funding to establish the third set of 50 new judgeships on June 1, 2009. The budget contained $33.9 million for the first month of funding and one-time facility costs for the third set of 50 judgeships. The budget also contained an additional $37 million to fully fund the second set of 50 judgeships authorized in 2007.

The Judicial Council has approved the allocation of the third set of 50 new judgeships. Senate Bill 1150 (Corbett) is pending in the Senate to authorize the third set of 50 new judgeships. The planned allocation for the third 50 judgeships is as follows:

- Contra Costa – 1
- Fresno – 3
- Humboldt – 1
- Kern – 2
- Los Angeles – 1
- Merced – 2
- Monterey – 1
- Orange – 2
- Placer – 2
- Riverside – 6
- Sacramento – 5
- San Bernardino – 7
- San Diego – 1
- San Joaquin – 3
- San Luis Obispo – 1
- Santa Cruz – 1
- Shasta – 1
- Solano – 2
- Sonoma – 1
- Stanislaus – 2
- Sutter – 1
- Tulare – 2
- Ventura – 1
- Yuba - 1

Special Section Action. As mentioned above, special session legislation was enacted in February 2008 to delay the appointment of 10 of the judgeships that had not been appointed from the first set of 50 judgeships authorized in 2006 until July 1, 2008. The legislation also delayed for one year, until June 1, 2009, the appointment of all 50 of the second set of judgeships authorized in 2007. This action also reduced all expenditures related to the third set of 50 judgeships from the budget. This action generated $21.9 million in one-time General Fund savings in the current year and $54.2 million in one-time General Fund savings in the budget year. This leaves $16.8 million in the budget to support one month of funding for the second 50 judgeships plus one-time facility costs related to the judgeships.

Staff Comments. Staff notes that the savings achieved by the Legislature in delaying the implementation of the new judgeships is one-time savings. Therefore, this action does not help the state to address the structural shortfall in the state budget. Staff finds that adding additional judges in the budget year will further increase out-year costs to the state.

Staff Recommendation. Staff recommends that the Subcommittee delay, by one additional month, the start date for the second 50 judgeships to July 1, 2009 for a savings of $16.8 million in the budget year.

3. Omnibus Conservatorship and Guardianship Reform Act of 2006

Background. Last year, the Legislature approved the Governor's budget proposal to fund the Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones). This act reforms the conservatorship and guardianship system, including significantly increasing court oversight. These reforms were initiated after evidence that the state's conservatorship system for elderly and dependent adults was fraught with fraud and abuse. All of the funding ($17.4 million General Fund) to support the implementation of this Act was vetoed by the Governor.

The AOC has indicated that the courts have started to implement this Act to varying degrees through the use of one-time resources. However, the lack of ongoing funding for this Act has prevented its full implementation.

Governor's Budget. The Governor's budget restored the $17.4 million ($3.3 million one-time) General Fund to implement the Conservatorship and Guardianship Reform Act of 2006.

Recent Report on Court Effectiveness in Conservatorship Cases. A recent report submitted to the Legislature by the Judicial Council reviewed the trial courts' conservatorship caseload. This study also sought to establish a baseline estimate of the staffing needed to meet statutory requirements in the processing and oversight of the conservatorship caseload and determine the overall effectiveness of the courts in conservatorship cases. This study finds that in 2005-06 approximately 5,600 petitions for conservatorship were filed and 1,600 petitions for the appointment of a temporary conservator were filed. The study also found in a sampling of cases over 20 percent were missing investigation reviews and 10 percent were missing accounting reviews.

The study also estimated the statewide staffing need for processing the conservatorship caseload. The study estimates that the median workload for each new filing of a conservatorship takes approximately 17.6 hours, with most of this time being spent on conducting the initial investigation. The study also finds that the total workload per year for each conservatorship under the court's jurisdiction is approximately 12.1 hours and most of this time is spent conducting reviews. Overall, the study identified a deficiency in statewide staff of 357 full-time equivalents to support the existing conservatorship caseload. This deficiency does not take into account the expanded role of the judiciary under the Omnibus Act of 2006.

Staff Comments. Staff finds that the Omnibus Act of 2006 makes important changes to improve the oversight of the state's conservatorship system and reduce fraud and abuse of elderly and dependent adults. However, given the state's current fiscal condition and the potential impact of the budget balancing reduction on court operations, staff finds that it is unlikely that resources will be available to fund new initiatives such as fully implementing the Act in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal and suspend, for one more year, the implementation of this statute.

4. Trial Court Security

Background. When the state took over as the primary funding source for trial court operations in 1998, varying levels of security were being provided among the courts. Subsequent legislation (SB 1396, Dunn) enacted in 2002 required the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court. The legislation required the court and the sheriff or marshal to enter into an annual or multi-year memorandum of understanding specifying the level, costs, and terms of payment related to the court security.

In 2003, the Judicial Council was directed to establish a working group to promulgate uniform standards and guidelines in regard to court security services. The group was directed to implement policies, standards, and establish policy direction for court security in order to achieve efficiencies and reduce security operating costs.

2007 Budget Proposal Was Rejected. The Governor's 2007 May Revision proposal contained $36.6 million from the General Fund to augment trial court security. This funding would have grown to $57.8 million General Fund to reflect full-year costs of the augmentation. This funding was proposed to augment the $21 million that was already allocated to the trial courts for court security. Ultimately, this funding proposal was rejected by the Legislature and not included in the 2007-08 Budget Act.

The 2007 proposal was the result of the working group directed by the 2003 legislation. Specifically, the funding in the proposal would have addressed the following:

- **Ongoing Shortfalls for Courts *Below* Standards.** $4.4 million to address ongoing security costs for existing levels of service at some courts that are below security standards.
- **Ongoing Shortfalls for Courts *Above* Standards.** $6 million to address ongoing security costs at six courts ($5.6 million for Los Angeles County) whose security services currently exceed statewide security funding standards.

- **New Court Security Standards.** $21.2 million for half-year costs associated with implementing new court security standards at courts that are currently below security standards developed by the Court Security Working Group and approved by the Judicial Council.
- **Retiree Health Costs.** $5 million to fund retiree health costs in six counties where the courts have historically funded these costs. The six counties are Contra Costa, Kern, Los Angeles, Sacramento, and Santa Clara.

The budget proposal also included scheduling court security in a separate item in the budget and draft trailer bill language that would address the following:

- Accountability provisions;
- Provision that SAL will provide the only annual adjustment to security funding;
- Cost containment measures;
- Reporting requirements; and
- Process for addressing emergency funding needs for court security.

The trailer bill was also rejected by the Legislature in 2007. Currently, AB 1876 (De Leon) is being considered by the Assembly to address trial court security.

Governor's Budget. The Governor's budget does not contain additional funding to implement the proposal developed by the working group that was directed by the 2003 legislation.

Courts Cannot Contain Security Costs. In most cases, the county sheriff determines the minimum level of security required in a court facility. In addition, the county board of supervisors, as opposed to the court, negotiates the level of salaries and benefits with the sheriff. Court security costs have grown rapidly over the past several years. Specifically, trial court security costs have increased from about $263 million in 1999-00 to about $450 million in 2006-07. This increase of about 8 percent annually is mainly attributed to negotiated salary increases received by sheriff's deputies.

LAO Option. The LAO recommends that the Legislature consider legislation that would direct the courts to contract for court security on a competitive bidding basis with both public and private security providers. The LAO finds that opening the bidding up to competition would allow the courts to gain greater control of rapidly escalating security costs. The LAO estimates that there would be only minor savings in the budget year, but potential savings could be $100 million or more at full implementation.

Inconsistent Funding Levels. The proposal submitted by the Governor in 2007 does not set consistent standards across jurisdictions related to the costs that the state will fund related to court security. Specifically, the state will continue to fund some courts for security service that exceeds state funding standards, while other courts will only be brought up to minimum standards by this proposal. Staff finds that this policy opens the state up to significant additional costs.

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

- Hold this issue open.

- Request that staff, the LAO, DOF, and AOC explore options for containing trial court security costs.

5. Court Reporting

Background. Current law requires the use of certified shorthand reporters to create and transcribe the official record of most court proceedings. Typically, the court reporter is the sole owner of all the equipment necessary to perform his or her duties, including the stenotype machine, computer-aided software for transcription, and all of the elements involved in producing the transcript. Also, for the most part, the court reporter transcribes the record on his or her own time, outside of the eight-hour work day. For these reasons, the transcripts are "owned" by the court reporter and must be purchased by the court. In addition to paying for the first copy, the court must pay a reduced rate for additional copies.

California's exclusive use of certified shorthand reporters contrasts with courts in other states, the federal courts, and even the U.S. Supreme Court. All of these courts use some form of electronic court reporting that involves using video and/or audio devices to record the statements and testimony delivered in the courtroom. The electronic recordings can be used to generate typed transcripts and the actual recording can also be used in a manner similar to a transcript.

A multi-year pilot of electronic reporting equipment was implemented in California courts from 1991 to 1994. This pilot demonstrated budget savings that ranged from $28,000 to $42,000 per courtroom per year depending on the technology employed.

Governor's Budget. The Governor's budget does not propose any changes to the policies related to court reporting. The AOC reports that in 2006-07 the courts expended approximately $26 million on transcripts purchased from the court reporters. The courts also report spending approximately $202 million on salaries and benefits for court reporters in 2006-07.

LAO Recommends Transition to Electronic Reporting. The LAO recommends that the Legislature consider transitioning from court reporters to electronic methods of recording court proceedings as an option for ongoing savings to the state. The LAO has suggested easing the transition by switching to electronic court reporting in just 20 percent of the courtrooms. The LAO has estimated that even after accounting for one-time costs of equipment the state could generate $13 million in savings in the budget year. This savings would grow to $53 million by 2010-11. Furthermore, the LAO estimates that the state could save as much as $111 million annually if electronic court reporting were fully operational in all California courtrooms.

The LAO finds that electronic reporting is a well established and cost-effective practice. Furthermore, the LAO also notes that transitioning to electronic reporting could also help to address the short supply of certified shorthand reporters. A 2005 report by the Judicial Council found that the pool of qualified court reporters had been dwindling for many years and was no longer sufficient to meet their needs. The LAO reports that the number of individuals passing the state hearing reporters examination has declined from 309 individuals in November 1995 to only 38 individuals in October 2007.

- **Staff Recommendation.** Staff recommends that the Subcommittee hold this issue open.

6. Adjustments in Civil Filing Fees

Background. The trial court system imposes civil fees on parties filing papers related to litigation. For example, the initial filing in a civil case seeking damages is typically $320, while the charge for fling legal papers to respond to such a filing is also $320. The revenue from these fees is intended to offset part, but not all, of the expenses incurred by the court that is associated with these cases.

As part of the 2005-06 Budget Act the Legislature passed the Uniform Civil Fees and Standard Fee Schedule Act of 2005. This statute reorganized many of the existing civil filing fees and increased some fees to create uniform statewide fee rates. This measure also stipulated that fees would remain unchanged until December 31, 2007.

Governor's Budget. The Governor's budget does not propose any changes to civil filing fees. Trial Court Trust Fund revenues from civil filing fees and surcharges are projected to be $424 million in the budget year.

LAO Recommends Increasing Civil Filing Fees. The LAO recommends that the Legislature consider raising civil filing fees because the current fee structure is not generating revenues sufficient to keep pace with the increased costs of court operations. The LAO suggests raising fees to reflect inflation since 2005-06 or just under 10 percent, which would generate $21 million in additional revenues. Additional fee revenues would allow the state to reduce General Fund support for the trial courts accordingly.

The LAO notes that the share of support for courts from civil fees has declined in recent years because fee rates have not been adjusted for inflation. This has resulted in a greater reliance on the General Fund to support trial court operations.

Staff Comments. Staff finds that there are currently legislative proposals to raise civil filing fees and use the proceeds to augment court operations. For example, SB 1177 (Ridley-Thomas) would investigate raising civil filing fees to pay for dispute resolution programs and AB 3050 (Judiciary) would raise civil filing fees to pay for interpreters in certain civil court proceedings.

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

- Request staff, LAO, DOF, and the AOC to explore a proposal to raise civil filing fees to reduce trial court reliance on the General Fund.

Judicial Council/Administrative Office of the Courts

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of $246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Judicial Council/AOC by $7.5 million. This reduction level would be reached by taking a one-time $4.7 million reduction to operations and withdrawing $2.8 million in workload budget proposals (see items number 2 and 3 below) included in the Governor's budget.

Staff Comments. The AOC has indicated to staff that there would be a significant reduction in the service level provided by AOC if the $4.7 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Judicial Council and AOC.

Staff Recommendation. Staff recommends that the Subcommittee hold open the proposed unallocated reduction to the Judicial Council/AOC budget.

2. Program Support – Judicial Branch

Background. Since the consolidation of the trial courts there has been a much more concerted effort to provide leadership, operational planning, and administrative support to trial courts on new programmatic efforts. The 2007-08 Governor's budget included $3.2 million to support 19 new positions at the AOC to support some of these efforts. Ultimately, these funds were not included in the version of the 2007-08 budget that was sent to the Governor.

Governor's Budget and Finance Letter. The Governor's budget included $1.5 million General Fund to support nine new positions at the AOC in the budget year. These positions would support the following activities:

- **Alternative Dispute Resolution Center –** Two new positions to promote court-connected alternative dispute resolution programs for civil cases.
- **Juvenile Delinquency –** Two new positions to address juvenile delinquency state-level policy development and implementation as well as provide support for delinquency court programs.
- **Self-Help Programs –** One new position to administer, coordinate, support, and evaluate the effectiveness of the self-help programs administered by the trial courts.
- **Education Programs –** One new position to support the training of new judges and new subordinate judicial officers.
- **On-Line Educational Course Development –** Two new positions for the development, implementation, and maintenance of online education courses for judges, commissioners, referees, temporary judges, and court personnel.

- **Appellate Workload –** One new position to work on creating workload standards and measures for the Courts of Appeal.

A Finance Letter (dated April 1, 2008) proposes to withdraw this budget proposal given the state's fiscal condition. The AOC notes that this budget proposal would have supported important workload needs.

Staff Comments. Staff finds that there is merit to many of the program efforts proposed by the courts. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget.

3. Fiscal Support—Judicial Branch

Background. Since the state took over funding for the trial courts there has been a much larger role for the Judicial Council and AOC in producing analysis of policies and procedures that will ensure an effective and efficient trial court system. The 2007-08 Governor's budget included $3.2 million to support 19 new positions at the AOC to support some of these efforts. Ultimately, these funds were not included in the version of the 2007-08 budget that was sent to the Governor.

Governor's Budget and Finance Letter. The Governor's budget included $1.3 million General Fund to support eight new positions at the AOC in the budget year. These positions would support the following activities:

- **Emergency Response -** One new position for assistance with ongoing emergency response and court security planning and continuity efforts.
- **Trial Courts and Southern Regional Office –** One new position to provide analytic support to judicial branch committees; respond to court requests for information; implement and staff programs that support collaboration and sharing of resources among courts; and conduct research regarding court operations.
- **Data Quality Control –** Two new positions to provide ongoing data auditing and quality control of trial court operational data.
- **Internal Audit Services –** One new position to address audit needs to help the judicial branch improve its use of public resources and improve operational efficiency.
- **Contracts –** Two new positions to reduce the contracts backlog and to improve statewide procurement efforts.
- **Northern/Central Regional Office –** One new position to provide administrative support to the staff located in this office.

A Finance Letter (dated April 1, 2008) proposes to withdraw this budget proposal given the state's fiscal condition. The AOC notes that this budget proposal would have supported important workload needs.

Staff Comments. Staff finds that there may be a need for some of these administrative staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget.

4. Federal/State Grants

Background. The Administrative Office of the Courts has a grant unit assigned to stay up-to-date on available grants suitable to fund projects and research at the AOC and/or courts.

Governor's Budget and Finance Letter. The Governor's budget proposes a $1.8 million net increase in the expenditure of federal funds and a $929,000 net increase in the expenditure of Reimbursements. The AOC has been successful in receiving three federal grants and two state grants. The federal grants are from the Federal Health and Human Services Agency and the Federal Department of Justice and the state grants are from the Office of Emergency Services (OES) and the Office of Traffic Safety (OTS). The AOC will fund the following projects with these grant monies:

- **Protective Order Registry –** This grant will be used to develop a statewide registry of court protective orders available to judges and law enforcement. Federal grant monies ($1.4 million) will be used to analyze, develop, and design the registry and state funds ($1 million grant from OES) that will be used to deploy the registry.
- **Child Data Collection –** This federal grant ($402,000) will help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help jointly plan for the collection and sharing of relevant data and information to ensure safe and timely permanency decisions between the courts and child welfare agencies on the local and state levels.
- **Judge and Attorney Training –** This federal grant ($402,000) will improve the courts' training of judges and attorneys.
- **Citation Tracking System –** This state grant ($495,000 grant from OTS) will be used to implement a statewide Citation Tracking System which enables agencies to issue and track citations electronically, provides capability to update driving records more efficiently, and will help in removing dangerous drivers and repeat offenders from California highways and roads in a timelier manner.

The new grants listed above are offset by other expiring grants and revised funding amounts for existing grants.

A Finance Letter (dated April 1, 2008) includes a one-time increase of $800,000 in federal funds to reflect a change in the grant award schedule for the Federal Child Access and Visitation Grant program. These grant funds are used to provide non-custodial parents with supervised visitation and exchange services, parent education, and group counseling services.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget and Finance Letter changes to the federal and state grants.

5. Information Technology Services—Trial Courts

Background. The AOC is in the process of implementing a statewide employment and financial system for the judicial branch referred to as the Phoenix Project. Significant state resources (over $110 million) have been dedicated to date to implement this statewide system that will provide the AOC with unified reporting capabilities for all aspects of trial court administrative functions.

To date, 49 courts have implemented Phoenix Financials, which is the financial and accounting component of the Phoenix Project. Implementation of this system includes extensive audits of the local trial court financial operations to ensure that the data being entered in the system is uniform across jurisdictions. The AOC plans to complete the deployment of Phoenix Financials by the end of the current fiscal year.

To date, the human resources component of the Phoenix Project has only been deployed to six of the courts. This system will ultimately restructure and standardize the payroll and other human resources related business practices for the trial courts.

The Phoenix Project has been funded by a mix of General Fund, Trial Court Improvement Fund, and Trial Court Trust Fund. The latter two funds are supported by civil filing fees.

Governor's Budget. The Governor's budget proposal includes $6 million General Fund to support 37.5 new positions to continue the development and deployment of the Phoenix Project. The AOC anticipates needing an additional $11 million in 2009-10 to complete the deployment of the project.

Staff Comments. The majority of the new staff resources are needed to provide ongoing support to the new Phoenix systems that will completely replace 58 different county run systems. For example, after the Phoenix Human Resources system is deployed statewide, payroll checks will be processed centrally for the trial court system. This is a big change from the current system, which relies on existing county functions.

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

6. Information Technology Services—State Judiciary

Background. In the 2006-07 Budget Act, the Legislature approved 17 limited-term positions to support information technology services for the State Judiciary. This request reflected the need for additional information technology resources to support the State Judiciary.

Governor's Budget. The Governor's budget proposal includes a reduction of $794,000 and elimination of 6 of the 17 limited-term positions authorized in the 2006-07 Budget Act. The budget proposal would also make permanent the remaining 11 positions authorized in the 2006-07 Budget Act.

Staff Comments. Staff finds that after trial court consolidation the AOC's role was greatly expanded. The AOC now has substantial responsibilities for court facilities and support services for the trial courts. This has resulted in a significant increase in staffing at the AOC, which has resulted in a greater demand for information technology support services.

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

7. Mental Health Services Act – Judicial Support

Background. In the 2006-07 Budget Act the AOC received funding from the Department of Mental Health (DMH) through an interagency agreement to strengthen the judicial branch responses in addressing the needs of adult and juvenile mentally ill court users. This funding has been used to support one position dedicated to providing technical assistance to trial courts and serving as a liaison with DMH and other related organizations.

Governor's Budget. The Governor's budget proposal would add an additional position to address the increased workload relating to mental health issues in the courts and to develop a research component to evaluate court appointed programs for the mentally ill. The budget proposal would also make a technical adjustment to switch the funding for the existing position from an interagency agreement with DMH to a direct appropriation. The total funding for this request is $431,000 from the Mental Health Services Fund, which is offset by a $137,000 reduction in reimbursements.

Staff Comments. The AOC indicates that a recent survey found that there are 34 existing mental health courts statewide and nine more courts are planned or in development. The improvement in outcomes for mentally ill offenders that participate in some of these collaborative court environments has helped to increase the number of mental health courts statewide. Nevertheless, there continues to be more that needs to be done to further develop the capacity of mental health courts and evaluate outcome measures to improve the current model.

Staff Recommendation. Staff recommends that the Subcommittee adopt this special fund budget proposal.

Supreme Court

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of $246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Supreme Court by $2.5 million. This reduction level would be reached by taking a one-time $1.5 million reduction to operations and withdrawing $1 million in workload budget proposals (see item number 2 below) included in the Governor's budget.

Staff Comments. Staff finds that the Supreme Court is a unique organization that has relatively few options for significantly reducing its budget without having major impacts on its ability to carry out its mission. For example, the Supreme Court has a very low vacancy rate and does not contract for a lot of services, which makes it difficult to make significant ongoing reductions without impacting personnel.

The AOC has indicated to staff that there would be a significant reduction in the service level provided by the Supreme Court if the $2.5 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Supreme Court.

Staff Recommendation. Staff recommends that the Subcommittee reject the proposed unallocated reduction to the Supreme Court budget.

2. Supreme Court Workload Adjustments

Governor's Budget and Finance Letter. The Governor's budget proposal included $1 million General Fund to support four budget proposals to augment the budget for the Supreme Court. Funding was included for the following proposals:

- **Capital Staffing –** $490,000 to support three new positions to address the increasing death penalty case workload of the Supreme Court. This augmentation is part of an effort to create a unit to provide the court with expert assistance in resolving death penalty appeals and related proceedings in a timely manner.
- **Committee on Judicial Ethics Opinions -** $444,000 to support two new positions to provide initial staff resources to support the newly created Supreme Court Committee on Judicial Ethics Opinions. The committee is tasked with providing advisory opinions to assist judges in ensuring that their on and off the bench conduct is consistent with ethical limitations that apply to judicial officers.
- **Court Appointed Counsel Program -** $47,000 to support increased costs for the California Appellate Project – San Francisco (CAP-SF). This proposal will support staffing increases in CAP-SF necessary to improve casework support to appointed counsel, enhance information systems technology and training, and improve the record

collection and preservation process. The CAP-SF provides private court-appointed counsel in capital cases with training and assistance and monitors and supervises the progress of counsel during the appellate process.

- **Law Library and Subscriptions -** $28,000 to support increased costs of legal books and subscriptions for the California Judicial Center Library.

A Finance Letter (dated April 1, 2008) proposes to withdraw all the budget proposals listed above given the state's fiscal condition.

Staff Comments. Staff finds that there may be a need for some of these staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Supreme Court's budget.

Courts of Appeal

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of $246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Courts of Appeal by $11.3 million. This reduction level would be reached by taking a one-time $10.6 million reduction to operations and withdrawing $700,000 in workload budget proposals (see item number 2 below) included in the Governor's budget.

Staff Comments. The AOC has indicated to staff that there would be a significant reduction in the service level provided by Courts of Appeal if the $11.3 million reduction was made permanent. Staff has not received specific information on the impacts of the budget reductions to the Courts of Appeal.

Staff Recommendation. Staff recommends that the Subcommittee hold open the proposed unallocated reduction to the Judicial Council/AOC budget.

2. Courts of Appeal Workload Adjustments

Governor's Budget and Finance Letter. The Governor's budget proposal included $700,000 General Fund to support two proposals to augment the budget for the Courts of Appeal. Funding was included for the following proposals:

- **Mediation Program Expansion –** $229,000 to support two settlement conference coordinator positions, one each in the Fourth Appellate District, Division One, San Diego and the Sixth Appellate District, San Jose. Due to personnel limitations these two courts are unable to establish settlement or mediation programs.
- **Fourth Appellate District, Riverside Workload -** $430,000 to support three positions for the Fourth Appellate District, Riverside court. This court has seen a considerable increase in caseload due to 15 new trial court judges in the region, significant increases in the number of public defenders and district attorneys in the region, and the special team of judges that was appointed to address the backlog of criminal cases in Riverside Superior Court.

A Finance Letter (dated April 1, 2008) proposes to withdraw all the budget proposals listed above given the state's fiscal condition.

Staff Comments. Staff finds that there may be a need for some of these staff. However, given the significant reductions facing the courts it does not make sense to establish new positions at this time.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Courts of Appeal budget.

3. Temporary Space - Third Appellate District

Background. The 2005-06 Budget Act appropriated $49 million to renovate the historic State Library and Courts Building located on Capitol Mall in Sacramento. The current tenants of that building are the Third Appellate District Court, the Supreme Court, and the State Library. A study by the project manager for this project, Department of General Services, determined that maintaining occupancy during construction was not feasible.

After the remodel, the library staff will be permanently relocated to a building (900 N Street) across the street from the historic building and the Court and Clerk will be consolidated in the restored historic Library and Courts Building. (The Clerk is currently located in the 900 N Street building.)

Governor's Budget. The Governor's budget proposal includes $8 million General Fund to temporarily relocate the Third Appellate District Court and clerk's staff during the construction phase of the historic Library and Courts building capital outlay renovation project. The funding is needed for tenant improvements and rent for the temporary space.

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

4. Equipment for New Courthouse - Fourth Appellate District

Background. Construction of a new court facility for the Fourth Appellate District, Division Three (Orange County) is scheduled to be completed by May or June of 2009. The new facility will be 53,000 square feet and will replace approximately 34,000 square feet of leased space in two buildings that the court is currently using.

Governor's Budget. The Governor's budget proposal includes $1.6 million from the Appellate Court Trust Fund and $70,000 from the General Fund for essential non-capital furniture, equipment, and fixtures needed to make the building operational as an appellate court. (Of the total amount, $2,000 is proposed for ongoing maintenance of equipment.) The proposal will fund the following items:

Item	Costs
Telephone System	$518,000
Data (Computing) Infrastructure	191,000
New Free Standing Furniture	475,000
Reused or Refurbished Free Standing Furniture (Judges Furniture)	64,000
Bookshelves	227,000
Office Equipment (Copiers and Faxes)	39,000
Audio Visual Equipment	179,000
Ongoing Maintenance	2,000
Moving and Relocation	120,000
less Architectural Revolving Funds	*-185,000*
Total	**$1,630,000**

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

Habeas Corpus Resource Center

1. Budget Balancing Reductions

Governor's Budget. As mentioned above, the Governor's budget proposes a 10 percent reduction to the Judicial Branch that equates to a reduction of $246 million General Fund. The Administration proposed this reduction as an across-the-board reduction, which means all components of the Judicial Branch would take a reduction.

AOC Budget Balancing Alternative. The AOC has put forward an alternative proposal that would reduce the Habeas Corpus Resource Center (HCRC) on a one-time basis by $778,000 General Fund.

Staff Comments. There are approximately 300 sentenced persons on death row that do not have a habeas corpus lawyer. This caseload continues to grow by about 19 annually. Persons sentenced to death currently wait an average of 10 years before a habeas corpus lawyer is appointed. Meanwhile, witnesses die or move away and evidence is destroyed making it more difficult to carry out a fair administration of justice. Further reductions to the HCRC would further exacerbate the backlog of sentenced persons that need habeas corpus lawyers.

Staff has not received specific information on the impacts of the budget reductions to the HCRC.

Staff Recommendation. Staff recommends that the Subcommittee reject the proposed unallocated reduction to the HCRC.

2. Caseload Tracking

Background. As mentioned above, there is currently a considerable backlog of inmates on death row that do not have habeas corpus counsel appointed. This caseload continues to grow by approximately 19 annually.

Governor's Budget. The Governor's budget proposal includes $139,000 ($21,000 one-time) General Fund to establish two positions to provide litigation support for the legal defense of death row prisoners.

Staff Comments. Staff finds that habeas corpus proceedings require a significant amount of research and on average take about twice as long as direct appeals cases. This is one of the reasons that the backlog of persons on death row without a habeas corpus lawyer appointment continues to grow. Staff finds that additional litigation support would help to increase the productivity of the habeas corpus lawyers, thereby allowing the lawyers to take more cases in any given year.

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

Administrative Office of the Courts: Office of Court Construction and Management

Background. The Office of Court Construction and Management was established in August 2003 as a division of the AOC to implement the Trial Court Facilities Act of 2002, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), that shifts governance of California's courthouses from the counties to the state. The office is responsible for the following activities:

- **Court Facilities Transfers.** The office is responsible for managing the transfer of responsibility and title for more than 450 court facilities from the counties to the state. The Judicial Council and the AOC represent the state in all aspects of transfer negotiations, assume responsibility for the administration and maintenance of court facilities following transfer, and administer all court construction and improvement projects.

- **Trial Courts Capital Outlay Planning**. Trial court and county leaders collaborate with the office to develop a 20-year facility master plan for each of the 58 superior courts in California. The projects were rated using a procedure approved by the Judicial Council and were subsequently consolidated in the AOC's *Trial Court Five-Year Capital Outlay Plan.*
- **Trial Courts Consultation and Advocacy.** The office directly supports the trial courts' facility planning initiatives. Because the counties are responsible for providing the trial courts with "necessary and suitable" facilities until the transfers are executed, the office assists courts in identifying their facility needs and advocating for their positions with the counties.
- **Trial Courts Operations and Maintenance.** The office manages the delivery of facilities operations and maintenance services to courts following transfer. The office maintains a call center for court staff to report facilities problems and is implementing Computer-Aided Facilities Management, a Web-based system that houses data, documentation, and processes related to the design, construction, operations, and maintenance of court buildings.
- **Appellate Courts Acquisition and Development.** The office will establish a comprehensive five-year capital facilities plan for the appellate courts based on their needs and preexisting programs and will work closely with the courts to meet their space requirements. The office will also oversee design and construction of new appellate courthouses.

Governor's Budget. The Governor's budget proposes $183.4 million to support the Judicial Branch's capital outlay program. This is a significant increase over estimated expenditures in the current year. The increase is mainly due to the proposed construction of four new courthouse projects funded by a proposed new court facilities bond.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Courts of Appeal	$5,306	$0	-$5,306	-100.0
Trial Courts	89,115	183,436	94,321	105.8
Total	$94,421	$183,436	$89,015	94.3
Funding Source				
State Court Facilities Construction Fund	89,115	121,852	32,737	36.7
2008 Judicial Bond Fund	0	61,584	61,584	0.0
Budget Total	*89,115*	*183,436*	*94,321*	*105.8*

Public Building Construction Fund	5,306	0	-	-
Total	$94,421	$183,436	$89,015	94.3

1. Court Infrastructure Bond—Informational Item

Background. The Judicial Branch has identified $9.7 billion in its 2008-09 Five-Year Infrastructure Plan. This plan is the result of a significant master planning process undertaken by the courts for both the appellate courts and the trial courts in each of the 58 counties. The master plans have a 20-year planning horizon. The facility requirements were based on the following guidelines and guiding principles:

- A Judicial Council adopted methodology to project and standardize statewide judicial needs based on a set of judicial workload standards and applied to census-based population data and historical caseload data. This methodology is also being used to project the need for future judgeships.
- Trial Court Facility Guidelines that were developed by a Task Force and adopted by the Judicial Council for developing space requirements. Application of these guidelines results in 8,500 to 10,000 usable square feet per courtroom.
- Local trial court public service objectives were also considered, including the distribution of court cases in each county.

The AOC has also developed a methodology for ranking the trial court capital outlay projects by evaluating four program objectives. All of the projects identified in the court master plan process were prioritized based on the following program objectives:

- Improve Security
- Reduce Overcrowding
- Correct Physical Hazards
- Improve Access to Court Services

Metrics were identified to reflect each of the program objectives and each court facility project was evaluated and given a rating. Based on these ratings, the projects were then categorized into five priority groupings. The court has not attempted to rank the projects within each of the five priority groupings. The 2008-09 Five-Year Infrastructure Plan has identified $9.7 billion in court facility projects that are categorized into the following priority groupings:

- Immediate Need - $2.9 billion
- Critical Need - $1.7 billion
- High Need - $2 billion
- Medium Need - $1.1 billion
- Low Need - $500 million
- Parking Needs - $500 million
- Space for 100 New Judgeships - $895 million

Governor's Bond Proposal. The Governor has proposed $2 billion in general obligation bonds for new and expanded court facilities. The Governor indicates that the $2 billion being proposed will handle the most critical infrastructure needs and allow the courts to leverage private funding through public-private partnerships.

Staff Comments. Staff notes that legislation (SB 1407, Perata) authorizing a court construction bond is currently pending in the Legislature.

2. Appellate Courts Capital Outlay—Informational Item

2008-09 Five-Year Infrastructure Plan. The Judicial Branch has identified three new appellate court projects in its 2008-09 Five-Year Infrastructure Plan. The 2008-09 Five-Year Infrastructure Plan proposes $26.8 million in General Fund support to start the acquisition phase for these three projects. The new court projects would replace existing leased space and are located in the following jurisdictions:

- Fourth Appellate District, Division One – San Diego
- Fourth Appellate District, Division Two – Riverside
- Sixth Appellate District – San Jose

Currently, there are two appellate courthouse projects that are being constructed to replace existing leased space. The following two courthouse projects are under construction:

- Fourth Appellate District, Division Three – Santa Ana
- Fifth Appellate District – Fresno

Construction on the Santa Ana project started in fall 2007. The courthouse project in Fresno is scheduled to be completed in summer 2008.

Governor's Budget. The Governor's budget does not provide any funding to support new appellate court projects in the budget year.

3. Trial Courts Facility Transfers and Capital Outlay

Background on Trial Court Facility Transfers. The counties started transferring court facilities to the state in 2004-05. To date, 119 facilities have been transferred to the state. Initially, there were delays in transferring the facilities because a significant number of the court facilities were in need of seismic upgrades that prevented them from being transferred to the state. Legislation enacted in 2006, SB 10 (Dunn), addressed this issue by allowing buildings that need significant seismic upgrades to be transferred to the state so long as liability for all earthquake-related damage remains with the counties. Nevertheless, over 330 court facilities remain to be transferred to the state.

Existing law required that the counties transfer the court facilities to the state by June 30, 2007. Legislation (AB 1491, Jones) to extend this date is currently being considered by the Legislature. Under the new legislation, counties would have until December 31, 2009 to transfer the court facilities to the state. The legislation would also implement two penalties for facilities that are transferred after October 1, 2008 and after April 1, 2009. For court facilities transferred to the state after October 1, 2008, they would have to pay a higher court facility payment adjusted by the National Implicit Price Deflator for State and Local Government Purchases. For the court facilities transferred to the state after April 1, 2009, the counties would have to pay a higher court facility payment adjusted by the State Appropriations Limit. The Senate Appropriations Committee estimates that penalty revenues could result in about $1 million in additional county facility payments from the counties to the state.

As part of the 2007-08 Budget Act, the Legislature enacted Chapter 176, Statutes of 2007 (SB 82, Budget) that included several changes to the trial court facility transfer process. These changes include the following:

- Allowed the Judicial Council to enter into public-private partnerships to construct new courthouse projects as long as benchmarks and performance criteria are submitted to the Legislature.
- Restricted new expenditures from the Court Facilities Construction Fund unless the increased expenditures are offset by increased revenues to the fund. (In the absence of a general obligation bond, this fund is the primary funding source for court construction projects and the courts have fully obligated this fund for the next several years funding 11 courthouse projects.)
- Required that Judicial Council develop disposition plans for courthouse properties transferred to the state before the construction of new courthouse projects in the same jurisdiction.

2008-09 Five-Year Infrastructure Plan. The 2008-09 Five-Year Infrastructure Plan has identified $183.3 million ($55 million General Fund) for 15 trial court projects considered "Immediate Need."

Governor's Budget and Finance Letter. The Governor's budget contains $113.4 million from the Trial Court Facilities Construction Fund to continue support for 11 courthouse projects that were started in prior fiscal years. The Governor's budget also contains $62 million in funding from proceeds of the general obligation bond for four new court facilities proposed by the Governor.

The budget proposes general obligation bond funding to start the acquisition phase for the following four projects:

- **Tehama - New Red Bluff Courthouse.** The Governor's budget proposal includes $16.3 million from a proposed general obligation bond for the acquisition phase to construct a new 5-court courthouse in or near the city of Red Bluff in Tehama County. The AOC and the county have not located a site for the new facility. The total estimated project cost is $72.9 million.

  The project will consolidate court operations from five facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project:
  - Historic Courthouse – county to maintain once vacated by the court.
  - Tehama County Courts Building (Annex 2) – county may keep this space.

- Family Law Commissioner – lease will be terminated.
- Corning Courthouse – facility to be sold or leased.
- Court Storage – lease will be terminated.

These facilities have not been transferred to the state.

- **Yolo - New Woodland Courthouse.** The Governor's budget proposal includes $8.1 million from a proposed general obligation bond for the acquisition phase to construct a new 14-court courthouse in or near the city of Woodland in Yolo County. The AOC has identified property across the street from the historic courthouse on a site currently occupied by the Old Jail building. The city of Woodland has signed a resolution to donate this property for the new courthouse building. The total estimated project cost is $158.4 million.

  The project will consolidate court operations from six facilities, all of which will be vacated by the project. The following are the facilities that will be vacated by the new project:
  - Historic Courthouse – county to maintain once vacated by the court.
  - Old Jail (Department 9) – may be demolished to construct new courthouse.
  - Family Support and Alternative Dispute Resolution (Department 16) – county to maintain once vacated by the court.
  - Family and Designated Department (Department 11) – leased space, lease to be terminated.
  - Fiscal, Human Resources, and Training – leased space, lease to be terminated.
  - Traffic/Small Claims/UD and Drug Court/Proposition 36 courtrooms (Departments 10 and 12) – leased space, lease to be terminated.

  All six of the existing facilities have been transferred to the state.

- **Butte - New North Butte County Courthouse.** The Governor's budget proposal includes $14.5 million from a proposed general obligation bond for the acquisition phase to construct a new 5-court courthouse in or near the city of Chico in Butte County. The AOC and the county have not located a site for the new facility, but are evaluating alternative sites for a larger northern county government complex. The total estimated project cost is $79.7 million.

  The project will consolidate court operations from two facilities, both of which will be vacated by the court after construction of the new project. The following two facilities will be vacated by the new project:
  - Chico Courthouse – county may keep this space.
  - Paradise Courthouse – AOC will offer equity sale to county, but space may be vacated by county and court and sold.

  Both of the existing facilities have been transferred to the state.

- **Los Angeles - New Southeast Los Angeles Courthouse.** The Governor's budget proposal includes $22.7 million from a proposed general obligation bond for the acquisition phase to construct a new 9-court courthouse in the Huntington Park-South Gate area of Los Angeles County. The total estimated project cost is $122.5 million.

  The project will replace the Huntington Park Courthouse and will return the lost operations of the former South Gate Courthouse. No criminal court services have been available to the Huntington Park and South Gate communities since criminal court operations were transferred to the Downey Courthouse in 2004. Also in 2004, the county closed the former South Gate Courthouse leaving the Huntington Park Courthouse to handle all non-criminal matters for the two communities. The land that the Huntington Park Courthouse is on is leased by the City of Huntington Park. Upon termination of the ground lease with the city the city will take control of the building.

  The now closed South Gate Courthouse is not considered an existing facility and will not be transferred to the state. The AOC is working on transfer of responsibility of the Huntington Park Courthouse.

The budget proposes funding from the Trial Court Facilities Construction Fund for construction of the following three projects:

- **Contra Costa - New Antioch Area Courthouse.** The Governor's budget proposal includes $51.6 million from the State Court Facilities Construction Fund for construction of a new seven-court courthouse in eastern Contra Costa County.

  The site for this building was selected and approved by the Public Works Board in September 2007. The site is adjacent to and south of the existing courthouse that is being replaced in the City of Pittsburg. The county did donate land, but several properties tangent to the site need to be acquired. The county did not want to purchase equity in the existing courthouse and the existing courthouse will be demolished to accommodate the completion of a governmental center planned by the city. Preliminary plans were approved by the Public Works Board in February 2008.

  The Legislature has appropriated $13.1 million from the State Court Facilities Construction Fund for this project since 2005-06. The total estimated project cost is $64.7 million.

- **Plumas and Sierra - New Portola/Loyalton Court.** The Governor's budget proposal includes $5.4 million from the State Court Facilities Construction Fund for construction of a new one-court courthouse in the Sierra Valley of Plumas County to serve both Plumas and Sierra Counties.

  Site selection and acquisition for this project was approved by the Public Works Board in October 2007. Approval of preliminary plans is scheduled for March 2008. The new courthouse will replace a part-time courthouse in Portola and leased space in Loyalton. The county will buyout the court for the space in the part-time courthouse in Portola and the lease on the space in Loyalton will be terminated.

The Legislature has appropriated $1.1 million from the State Court Facilities Construction Fund for this project since 2006-07. The total estimated project cost is $6.5 million.

- **Mono - New Mammoth Lakes Court.** The Governor's budget proposal includes $13.1 million from the State Court Facilities Construction Fund for construction of a new two-court courthouse in Mammoth Lakes, Mono County. A Finance Letter (dated April 1, 2008) proposes an additional $5.6 million for construction and $219,000 for working drawings from the State Facilities Construction Fund. The increased costs are primarily due to adjustments needed to address active seismic activity in the area and heavy snow loads. The increased costs also reflect a revised construction schedule because extreme weather construction can only occur between May and October.

  Site selection for this project was approved by the Public Works Board in March 2007. The new courthouse will be part of a complex that will include the Southern Mono Hospital District, the town of Mammoth Lakes and Mono County. The complex will be constructed on land acquired from the U.S. Forest Service. Site acquisition was approved at the February 2008 State Public Works Board meeting. The court currently occupies leased space in a shopping mall. This lease will be terminated once the new project is constructed.

  The Legislature has appropriated $2.8 million from the State Court Facilities Construction Fund for this project since 2006-07. The total estimated project cost is $21.5 million.

The budget proposes funding from the Trial Court Construction Fund to support the preliminary plans phase for the following projects:

- **Madera - New Madera Court.** The Governor's budget proposal includes $3.7 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 10-court courthouse in or near the City of Madera. This project had been an 11-court courthouse, but because of revised judicial need estimates it has been reduced by once courtroom.

  Site selection is in process and an advisory group of court and county members has been formed to review and select a site for the new courthouse. The acquisition phase is scheduled to be complete in January 2009. There are two existing facilities that will be replaced by this project. The court will offer to sell the existing Madera Superior Courthouse to the county and the lease for the Madera Family Court Services facility will be terminated.

  The Legislature appropriated $3.4 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $97 million.

- **San Bernardino - New San Bernardino Court.** The Governor's budget proposal includes $13 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 36-court courthouse in the City of San Bernardino.

A site across the street from the Historic San Bernardino Courthouse has been selected for the new courthouse project and was approved by the Public Works Board in December 2007. The site was donated by the county and the acquisition phase is scheduled to be complete by June 2008.

The County of San Bernardino has passed a resolution in support of this project, including a redirection of $8.8 million in county funds that had been set-aside for a seismic retrofit of an existing courthouse facility. The county has also agreed to buyout the court's equity value of several existing court facilities and in exchange the county is providing the site for the new courthouse. The county has agreed to buyout the court's equity in the following court facilities that will be replaced by the new courthouse project:

- Court Executive Office
- Appellate and Appeals North Annex
- Juvenile Delinquency Courthouse
- San Bernardino Juvenile Traffic
- Redlands Courthouse
- Twin Peaks Courthouse

The court is also planning to vacate the San Bernardino Courthouse Annex (T-Wing), but the county has not agreed to buyout the court's equity in this building. The courts are currently evaluating options for using this property, including using the building for court storage.

There is an additional court facility that will be impacted by the construction of the new San Bernardino courthouse. The Rialto caseload that is currently being served in the Fontana Courthouse will be transferred to the new San Bernardino courthouse once it is completed. This will free up additional space in the Fontana Courthouse that the court will continue to occupy. Furthermore, the county is pursing the renovation of the Historic San Bernardino Courthouse into a nine-court courthouse that will handle civil caseloads. The county is also pursuing renovation of 303 Third Street for long-term use for two Child Support Commissioners.

The Legislature appropriated $4.8 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $338.4 million.

- **San Joaquin - New Stockton Court.** The Governor's budget proposal includes $9.9 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 30-court courthouse in downtown Stockton.

  A site adjacent to the existing courthouse has been offered as a site for this project by the County of San Joaquin. However, the site has not been officially selected or approved by the Public Works Board. The acquisition phase is expected to be completed by June 2008.

The existing Stockton Courthouse was transferred to the state in May 2007. This facility will be replaced by the new courthouse and an agreement has been reached with the county to buyout the court's equity in the existing facility.

The Legislature appropriated $6.6 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $259.9 million.

- **Riverside – New Mid-County Region Court.** The Governor's budget proposal includes $2.3 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 6-court courthouse in or near the City of Banning in Riverside County.

  The AOC has formed a Project Advisory Group with the community to review potential sites for this project. Five sites have been selected for further evaluation and selection. The AOC expects the acquisition phase will be completed by March 2009. The existing courthouse that will be replaced was transferred to the state in June 2007. The AOC will offer to sell the existing space to the county, but no final arrangements have been made to dispose of the existing facility.

  The Legislature appropriated $3.3 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $63 million.

- **Tulare – New Porterville Court.** The Governor's budget proposal includes $3.3 million from the State Court Facilities Construction Fund for the preliminary plans phase to build a new 9-court courthouse in the City of Porterville.

  The AOC has formed a Project Advisory Group with the community to review potential sites for this project. Primary and secondary sites have been selected and the AOC expects to complete the acquisition phase by March 2009. This project will replace two court facilities with five courtrooms. The existing Porterville Courthouse was transferred to the state in May 2007. The AOC will offer to sell the existing space to the county, but no final arrangements have been made to dispose of the existing facility.

  The Legislature appropriated $4.4 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $91 million.

The budget proposes funding from the Trial Court Construction Fund to support the preliminary plans phase and working drawing phase for the following projects:

- **San Benito – New Hollister Court.** The Governor's budget proposal includes $3.3 million from the State Court Facilities Construction Fund for preliminary plans and working drawings to build a new 3-court courthouse in the City of Hollister.

The county has committed to donating land (valued at $5.5 million) for the new courthouse in exchange for the equity buyout of court facilities in the existing Civic Center Building in the City of Hollister. Site selection was approved at the March 2008 Public Works Board meeting and the AOC expects to complete the acquisition phase by July 2008. This project will replace the existing court facilities in the existing Civic Center building in the City of Hollister. These court facilities were transferred to the state in July 2007.

The Legislature appropriated $541,000 from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $36.2 million.

- **Calaveras – New San Andreas Court.** The Governor's budget proposal includes $4.1 million from the State Court Facilities Construction Fund for preliminary plans and working drawings to build a new 4-court courthouse in the City of San Andreas.

  The county has committed to donating land (valued at $316,000) for the new courthouse that will be applied to the equity buyout of the court occupied space in the existing shared-use facility. Site selection was approved at the March 2008 Public Works Board meeting and the AOC expects to complete the acquisition phase by June 2008. This project will replace the court facilities in an existing shared-use facility and a leased modular building. Both of these facilities transferred to the state in June 2007. The county will buyout the court equity in the existing building and the lease for the modular space will be terminated.

  The Legislature appropriated $845,000 from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $43.6 million.

- **Lassen – New Susanville Court.** The Governor's budget proposal includes $3.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville.

  The AOC has formed a Project Advisory Group with the community to review potential sites for the project. Site selection began in December 2007 and the AOC expects that the acquisition phase will be completed by September 2008. This project will replace three county court facilities. The court will vacate the Historic Lassen County Courthouse and the county will continue to occupy and maintain this facility. The Courthouse Annex and Self-Help Center leased space were transferred to the state in June 2007. The AOC will offer to sell the Courthouse Annex to the county, but no final arrangements have been made to dispose of the existing facility. The lease for the Self-Help Center will be terminated.

  The Legislature appropriated $1.5 million from the State Court Facilities Construction Fund for this project last year. The total cost of this project is expected to be $38.8 million.

LAO Withholds Recommendation on Bond Funded Projects. The LAO withholds recommendation on the four new bond-funded courthouse projects because two of the facilities they would replace have not been transferred to the state. In addition, the LAO finds that these new projects need to be examined in the context of the state's overall infrastructure plan.

Other LAO Recommendations. The LAO also recommends that legislation be enacted that requires that the courthouses they replace be transferred to the state before funding for the new courthouse projects can be released. The LAO notes that this is consistent with conditions imposed in previous budget bills.

The LAO also recommends going forward on the other 11 courthouse projects that had previously been approved by the Legislature.

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

- Without prejudice to the projects, reject the four bond-funded projects pending authorization of a court construction bond.
- Approve the 11 projects funded by the State Court Facilities Construction Fund.
- Approve draft trailer bill language to ensure that courthouse facilities being replaced transfer to the state before funding for construction of new courthouses is released.

4. Court Facility Operations and Maintenance

Background. Upon transfer of responsibility and/or title to the state, counties provide funding for facilities operation and maintenance costs based on historic funding patterns. These payments are referred to as county facility payments (CFPs) and are calculated for each facility prior to the transfer of responsibility and/or title of each court facility. County facility payments are deposited in the Court Facilities Trust Fund to support operations and maintenance of court buildings that have been transferred to the state.

Any costs for operating and maintaining court facilities above the CFPs made by counties are the responsibility of the state. Statutory changes that were enacted as part of the 2006-07 budget provide for increases in state funding for operating and maintaining court facilities in the future. Specifically, beginning two years after the transfer of a facility, inflationary cost adjustments for operations and maintenance are provided in accordance with the State Appropriations Limit.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) have three proposals related to court facility operations and maintenance. The proposals are summarized below:

- **Adjustment for Additional CFPs.** The Governor's budget proposal augments expenditure authority from the Court Facilities Trust Fund by $9.2 million and increases reimbursements by $811,000 in the budget year to enable expenditure of CFPs for 40 additional court facilities that have been transferred to the state in the current year. The increased revenues to the Court Facilities Trust Fund are also due to lease revenues from the Long Beach Court.

A Finance Letter (dated April 1, 2008) proposal includes $2.4 million in additional expenditure authority from the Court Facilities Trust Fund and $588,000 in reimbursements to enable expenditure of CFPs for five additional court facilities that have been transferred to the state in the current year and 13 additional facilities that are expected to transfer.

In summary, expenditure authority from the Court Facilities Trust Fund will be augmented by $11.6 million in the budget year and reimbursement authority will be increased by $1.4 million.

- **Adjustment for New Facilities.** The Governor's budget proposes to transfer $525,000 General Fund to the Court Facilities Trust Fund to cover the additional operations and maintenance costs of the new Alameda Juvenile Justice Center, the new Fresno Juvenile Delinquency Courthouse, the new Madera County Superior Courthouse, and the new Merced Iris Garrett Juvenile Justice Center.

  These projects will replace smaller outdated facilities and the AOC indicates that the CFPs for the existing facilities will not cover the costs of the new facilities. All of the new facilities have transferred to the state except for the Fresno Courthouse. The Fresno Courthouse is currently under construction and is scheduled to be completed by January 2009.

- **Trial Court Facilities Modifications.** The Governor's budget proposes to allocate $17 million annually from the State Court Facilities Construction Fund and $5 million in reimbursements to support facility modifications of trial court facilities that have been transferred to the state. The AOC defines facility modifications as physical modification to a facility component that restores or improves the designed level of function of a facility. This augmentation would bring the total allocation available for facility modification needs of the trial courts to $25 million.

Building Maintenance Payments From Counties Fall Short. The amount paid annually by the counties in the form of a County Facilities Payment (CFP) is being determined when each court facility is transferred to the state and is based on a five-year average of operations and maintenance costs developed five years ago. The state is finding that, in many cases, these maintenance payments do not adequately cover the operations and maintenance costs of the buildings, especially given the age and condition of many of these buildings.

As mentioned above, the CFPs are adjusted by the State Appropriations Limit two years after the building has transferred from the county to the state. However, even this amount may not be adequate to address all of the operations and maintenance needs of these aging court buildings. Even though many facilities transferred to the state in the current year the AOC has not asked for a supplemental General Fund appropriation to fully fund the operations and maintenance costs of the transferred facilities.

The legislation (AB 1491, Jones) to extend the date at which counties can transfer their courthouse facilities to the state is currently pending in the Assembly. This legislation would provide marginal increases to the CFPs paid by counties if they did not transfer their facility to the state before certain deadlines. The Senate Appropriations Committee estimates that additional CFP payments could be $1 million annually.

Staff Comments. When all of the court facilities are transferred to the state, the AOC will be managing a significant portfolio of properties. Staff finds that it is sensible to have annual funds budgeted for special repairs and other modifications that must be made to the facilities. This is consistent with how many other large state agencies budget for facility modifications.

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

- Approve the Governor's budget and Finance Letter adjustments for additional CFPs.
- Approve the funding for new facilities transferred to the state.
- Approve the funding for court facility modifications.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

PART B

Wednesday, April 9, 2008

OUTCOMES

(Consultant: Keely Martin Bosler)

Item	**Department**	**Page**

State Administration—General Government—Judiciary—Transportation

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

0855 Gambling Control Commission

1. Tribal Gaming Revenues

Action. All parties agreed to report revenues separately in the budget and DOF reported that actions were already in process to make this change. No action was taken since the change was already in process.

2. Revenue Sharing Trust Fund

Action.

- Adopted the LAO recommendation to use SDF revenues to cure the RSTF instead of the tribal gaming revenues that would flow directly to the state. **This will increase General Fund revenues relative to the Governor's budget by $40 million.**
- Adopted LAO recommended budget bill language to authorize the Department of Finance to order a transfer from the SDF to the RSTF of up to $50 million.
- Adopted LAO recommended budget bill language to specify that any portion of the $50 million not needed to cure the RSTF shortfall remain in the SDF.
- Adopted LAO recommended budget bill language to ensure the General Fund transfer envisioned in the four tribes' compacts will not be triggered in the budget year.

Vote. 3-0

3. Local Mitigation – Informational Item

Action. No action was taken on this informational issue.

4. Inspection Program

Action. Rejected this proposal pending justification of the effectiveness of the commission's inspection program. This will reduce expenditures from the Special Distribution Fund by $1 million.

Vote. 2-1 (Dutton)

5. Licensing Workload

Action. Rejected this proposal given the budget situation. This will reduce expenditures from the Special Distribution Fund by $682,000 and the Gambling Control Fund by $44,000.

Vote. 3-0

1690 Alfred E. Alquist Seismic Safety Commission

1. Update on Grant Program—Informational Item

Action. No action is required as this is an informational item.

8830 California Law Revision Commission

Action.

- Approved the CLRC's budget.
- Approved a $74,000 reduction (equivalent to the Governor's budget balancing reduction) to CLRC's budget.

Vote. 3-0

8840 California Commission on Uniform State Laws

Action.

- Approved the CUSL budget.
- Approved a $17,000 reduction (equivalent to the Governor's budget balancing reduction) to CUSL's budget.

Vote. 3-0

8140 State Public Defender

1. General Budget Support

Action.

- Approved the budget change proposal to fund the lease increases.
- Reduced the OSPD by $591,000 in the budget, thereby restoring $623,000. This will keep the OSPD at its 2007-08 budget level. This will allow OSPD to maintain some salary savings, backfill some vacancies, and contract for limited services. **This budget action results in adding $623,000 General Fund relative to the Governor's budget.**

Vote. 2-1 (Ackerman)

0280 Commission on Judicial Performance

Action.

- Approved the budget for the Commission on Judicial Performance.

- Approved the budget balancing reduction for the Commission on Judicial Performance.

Vote. 3-0

0390 Contributions to the Judges' Retirement System

Action.
- Approved as budgeted the Contributions to Judges' Retirement System.

Vote. 3-0

0250 Judicial Branch

Trial Courts

1. Trial Court Funding – SAL Growth Factor

Action. Held this issue open. Staff notes that the Subcommittee rejected unallocated reductions in subsequent items (Supreme Court, Court of Appeals and Habeas Corpus Resource Center). These actions are not intended to reduce the overall 10 percent reduction target set by the Governor.

2. New Trial Court Judgeships

Action. Approved a delay, by one additional month, the start date for the second 50 judgeships to July 1, 2009 for a savings of $16.8 million in the budget year. **This budget action provides $16.8 million General Fund towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

3. Omnibus Conservatorship and Guardianship Reform Act of 2006

Action.
- Rejected funding to support the implementation of this Act and suspended implementation for one more year. **This action provides $17.4 million in General Fund towards the Governor's unallocated reduction.**
- Approved budget bill language (to be drafted) to make it clear that this Act was not funded in the budget and the courts are not required to implement in the budget year.

Vote. 2-0 (Ackerman absent)

4. Trial Court Security

Action.

- Approved trailer bill language to limit the amount counties can charge the courts for trial court security to the mid-step salary of sheriff deputy. Three mid-step levels shall be defined in statute for large, medium, and small counties.

Vote. 2-1 (Ackerman)

5. Court Reporting

Action. Held this issue open. Directed staff, LAO, DOF, and the Courts to explore options for savings related to converting civil court operations only to electronic reporting.

6. Adjustments in Civil Filing Fees

Action.

- Approved 10 percent increase in civil filing fees, which would generate $21 million in civil filing fees and a corresponding reduction of General Fund support in the budget year. **This action provides $21 million in General Fund savings towards the Governor's unallocated reduction. It also increases fee revenues.**

Vote. 2-0 (Ackerman absent)

Judicial Council/Administrative Office of the Courts

1. Budget Balancing Reductions

Action. Held this issue open.

2. Program Support – Judicial Branch

Action. Approved the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget. **This action provides $1.5 million in General Fund savings towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

3. Fiscal Support—Judicial Branch

Action. Approved the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the AOC's budget. **This action provides $1.3 million in General Fund savings towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

4. Federal/State Grants

Action.

- Approved the budget and Finance Letter changes to the federal and state grants.

Vote. 2-0 (Ackerman absent)

5. Information Technology Services—Trial Courts

Action. Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

6. Information Technology Services—State Judiciary

Action. Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

7. Mental Health Services Act – Judicial Support

Action. Approved this special fund budget proposal.

Vote. 2-0 (Ackerman absent)

Supreme Court

1. Budget Balancing Reductions

Action. Rejected the proposed unallocated reduction to the Supreme Court budget. **The intent is that this action has no impact to the overall budget balancing reduction target set by the Governor.**

Vote. 2-0 (Ackerman absent)

2. Supreme Court Workload Adjustments

Action. Approved the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Supreme Court's budget. **This action provides $1 million in General Fund savings towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

Courts of Appeal

1. Budget Balancing Reductions

Action. Rejected the proposed unallocated reduction to the Courts of Appeal budget. **The intent is that this action has no impact to the overall budget balancing reduction target set by the Governor.**

Vote. 2-0 (Ackerman absent)

2. Courts of Appeal Workload Adjustments

Action. Approved the Governor's budget proposal and the Finance Letter, which in combination makes no augmentation to the Courts of Appeal budget. **This action provides $700,000 in General Fund savings towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

3. Temporary Space - Third Appellate District

Action. Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

4. Equipment for New Courthouse - Fourth Appellate District

Action. Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

Habeas Corpus Resource Center

1. Budget Balancing Reductions

Action. Rejected the proposed unallocated reduction to the HCRC. **The intent is that this action has no impact to the overall budget balancing reduction target set by the Governor.**

Vote. 2-0 (Ackerman absent)

2. Caseload Tracking

Action. Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

Administrative Office of the Courts: Office of Court Construction and Management

1. Court Infrastructure Bond—Informational Item

Action. No action needed, this is an informational item.

2. Appellate Courts Capital Outlay—Informational Item

Action. No action needed, this is an informational item.

3. Trial Courts Facility Transfers and Capital Outlay

Action.

- Rejected without prejudice the four bond-funded projects pending authorization of a court construction bond.
- Approved the 11 projects funded by the State Court Facilities Construction Fund, including the Finance Letter related to the Mono – New Mammoth Lakes Court project.
- Approved draft trailer bill language to ensure that courthouse facilities being replaced transfer to the state before funding for construction of new courthouses is released.

Vote. 2-0 (Ackerman absent)

4. Court Facility Operations and Maintenance

Action.

- Approved the Governor's budget and Finance Letter adjustments for additional CFPs.

- Approved the funding for new facilities transferred to the state.
- Approved the funding for court facility modifications.

Vote. 2-0 (Ackerman absent)

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

Thursday, April 10, 2008
10:00 a.m. or Upon Adjournment of Session
Room 112

State Administration—General Government—Judiciary—Transportation

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

8550 California Horse Racing Board

Background. The California Horse Racing Board (CHRB) licenses racing industry participants, enforces racing rules related to drugs and other offenses, administers efforts to protect racing horses, and oversees programs to improve the health of jockeys and other industry employees. The CHRB regulates operations at 14 racetracks, 20 simulcast facilities, and advance deposit wagering services (available via telephone or on-line).

Governor's Budget. The Governor's budget proposal includes $11.5 million to support the CHRB in 2008-09. This is about 4.5 percent more than is estimated for expenditure in the current year due to a proposal to augment the rates paid to stewards and veterinarians, employee compensation adjustments, and a price increase.

Excess revenues from unclaimed pari-mutuel tickets (Racetrack Security Fund, also called the Special Deposit Fund) are transferred to the General Fund. The Governor's Budget estimates that $400,000 will be available for transfer to the General Fund, which is $100,000 more than is estimated for transfer in the current year.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
California Horse Racing Board	$11,050	$11,546	$496	4.5
Administration	8,937	9,340	403	4.5
less distributed Administration	*-8,937*	*-9,340*	*-403*	*0.0*
Subtotal	$11,050	$11,546	$496	4.5
Funding Source				
Special Funds	$9,519	$10,131	$612	6.4
Budget Total	*9,519*	*10,131*	*612*	*6.4*
Special Deposit Fund	1,531	1,415	-116	-7.6
Subtotal	$11,050	$11,546	$496	4.5

1. Steward and Veterinarian Contract Increases

Background. The California Horse Racing Board (CHRB) contracts with professional stewards and licensed veterinarians to ensure the safety and integrity of on-track racing. Official state veterinarians supervise all veterinary phases of racing operations at the horse racing meetings. The Boards of Stewards supervise all phases of racing operations at the horse racing meetings and hold administrative hearings to conduct fact-finding and adjudicate CHRB rules and regulations.

Governor's Budget. The Governor's budget proposal includes $430,000 from the Fair and Exposition Fund to support a pay increase for contracted stewards and veterinarians. This level of funding would support an average pay increase of 19 percent to 25 percent for the stewards and veterinarians. This funding would also be used to support an additional contract assistant steward in southern racing arenas to liaise between the stewards' stand and the backstretch.

No Rate Increases Given Recently. The board indicates that the stewards and veterinarians have received the same daily rates since 1999-00. Currently stewards and veterinarians are paid approximately $420 and $400 per day, respectively. The price increase proposed by the Governor would increase this rate to $500 per day, which would result in contract payments of approximately $100,000 annually (assuming 200 racing days a year). The board indicates that it needs this rate increase to ensure that it can continue to recruit qualified stewards and veterinarians.

Additional Steward Piloted. The board indicates that it piloted the use of an assistant steward at the Del Mar Thoroughbred Club meeting in the current year. This assistant steward was used as a liaison between the stewards' stand and the backstretch and was responsible for identifying three instances of inappropriate race day treatments that disqualified horses from racing. The board would like to make this position permanent for the southern racing arenas.

Fair and Exposition Fund. The Fair and Exposition Fund currently has a structural deficit, that is annual expenditures from the fund are projected to exceed annual expenditures from the fund by about $700,000 in the budget year.

The board has indicated that two pieces of legislation passed in 2007 may enhance revenues to the Fair and Exposition Fund. Chapter 594, Statutes of 2007 (AB 241, Price) authorizes fairs to operate up to 45 new mini-satellite wagering facilities on leased premises within the boundaries of the fair. This expansion in satellite wagering could generate additional revenues for the Fair and Exposition Fund. The board estimates that revenues could increase by $3.6 million annually from this legislation. The Legislature also enacted Chapter 613, Statutes of 2007 (AB 765, Evans) which authorizes a fair, or an association conducting racing at a fair, to deduct an additional 1 percent from its handle to be used for maintenance and improvements at a fair's racetrack enclosure. Analyses by the legislature indicated that this new law could generate $1.5 million in additional revenues for racetrack improvements, which could reduce reliance on the Fair and Exposition Fund. Nevertheless, the Governor's budget does not reflect an increase in revenues due to this legislation.

Staff Comments. Staff finds that the Governor's budget includes $160,000 to fund a general price increase for the board. Staff finds that this price increase could help provide for a marginal increase in the contracted rates paid to stewards and veterinarians. Furthermore, the board has not presented information to the staff that it is currently having problems recruiting stewards and veterinarians at the current contract rate. Furthermore, there is currently not enough revenue in the Fair and Exposition Fund to support this augmentation in the future.

Staff Recommendation. Staff recommends that the Subcommittee:

- Reject the budget proposal.

1870 California Victim Compensation and Government Claims Board

Background. The California Victim Compensation and Government Claims Board's (VCGCB) primary functions are to compensate victims of violent crime and consider and settle civil claims against the state. The Board consists of three members: the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor.

The board also determines equitable travel allowances for certain government officials, responds to protests against the state alleging improper or unfair acts in the procurement process, and provides reimbursement of counties' special election expenses.

Governor's Budget. The Governor's budget includes $167.5 million to support the VCGCB's activities. This is a slight decrease from estimated expenditures in 2007-08 due to one-time payments to reimburse local governments for special elections in the current year.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Citizens Indemnification	$156,954	$156,802	-$152	-0.1
Quality Assurance and Rev Recovery Div	9,570	9,332	-238	-2.5
Civil Claims Against the State	1,344	1,373	29	2.2
Citizens Benefiting the Public	20	20	0	0.0
Administration	9,448	9,688	240	2.5
less distributed Administration	*-9,973*	*-10,223*	*-250*	*0.0*
Executive Office Administration	525	535	10	1.9
Counties' Special Election Reimb	2,643	-	-	-
Total	$170,531	$167,527	-$3,004	-1.8
Funding Source				
General Fund	$2,643	-	-	-
Restitution Fund	134,357	133,967	-390	-0.3
Budget Total	*137,000*	*133,967*	*-3,033*	*-2.2*
Federal Trust Fund	32,187	32,187	0	0.0
Reimbursements	1,344	1,373	29	2.2
Total	$170,531	$167,527	-$3,004	-1.8

1. Restitution Fund

Background. A defendant found guilty of a criminal offense is usually ordered by the court to pay various fines and penalties. The money collected is divided in accordance with state law as determined by a judge, among various recipients, and sometimes includes direct payments of restitution to the victim of the crime. In addition, both state and local government agencies finance a number of programs from the fine and penalty money that they receive. A portion of the money collected from defendants is deposited in the Restitution Fund, which was established to compensate those injured by crime.

The Restitution Fund is the primary source of funding for the Victims Compensation Program (VCP). These monies are continuously appropriated, which means they are not subject to appropriation by the Legislature in the annual Budget Act. The Restitution Fund revenues are used as a match to draw down federal funds under the Victims of Crime Act (VOCA) grant program. The VCP receives 60 cents in federal VOCA grant funding for each dollar spent to provide victims with services.

In addition to the VCP, the Restitution Fund has more recently supported the following new initiatives:

- **Office of Emergency Services**: (1) $9.5 million for the California Gang Reduction, Intervention, and Prevention (CalGRIP) initiative that provides grants to local entities; (2) $1 million to support four Internet Crimes Against Children taskforces in San Diego, Sacramento, San Jose and Los Angeles.
- **Department of Justice:** (1) $6.7 million for the California Witness Protection Program.

Governor's Budget. The Governor's budget proposal projects $123 million in revenues and $151 million in expenditures to and from the Restitution Fund in 2008-09. This is similar to the level of revenues and expenditures estimated from the Restitution Fund in the current year.

LAO Finds Budget Overstates Expenditures and Understates Revenues from Restitution Fund. The LAO finds that the Governor's budget overstates expenditures from the Restitution Fund and understates revenues to the Restitution Fund in the current year and budget year. The board and DOF concur that expenditures from the Restitution Fund are overstated in the Governor's budget. The department estimates that expenditures have been overstated by over $25 million each year starting in 2006-07. If the expenditures are revised as per the recommendations by the LAO and DOF, the fund will end the budget year with a reserve of $124 million.

The LAO also finds that revenues are likely to be understated. If revenues are understated, this could increase the reserve balance by another $18 million to a total of $142 million at the end of the budget year.

LAO Finds Increased Victim Claims and Support for Other Programs May Leave Fund Short in the Future. The LAO finds that the Restitution Fund may face a shortfall in the next five years if changes are not made to help move the Restitution Fund towards long-term solvency. The LAO identifies that the main source of the problem is the likelihood that expenditures will grow faster than the relatively stable revenues flowing into the fund. The increased expenditures are due to (1) increased awareness of the services provided by the board, (2) various rate increases to the board's service providers (medical providers are now reimbursed at Medicare plus 20 percent, mental health providers are paid $90 to $130 per hour), and (3) increased use of the Restitution Fund in recent years to support other new state programs.

State Missing Federal Matching Opportunity. The VCP receives 60 cents in federal VOCA grant funding for each dollar spent to provide victims with services. The LAO finds that this is not the case for Department of Justice (DOJ) and Office of Emergency Services (OES) expenditures from the Restitution Fund. The LAO estimates that the $17 million spent on these projects potentially reduces the federal grant revenue the fund would otherwise receive if the money was actually spent on qualifying services for victims by as much as $10 million annually.

The LAO has identified that one of the purposes of the Witness Protection Program administered by DOJ is to assist crime victims, as witnesses are often crime victims themselves. Therefore, the LAO has identified that some of the Restitution Fund expenditures in support of the Witness Protection Program may qualify for federal matching funds under the VOCA program if the program was administered by the Board and not DOJ.

Other LAO Options for Moving the Restitution Fund Towards Long-Term Solvency. The LAO has also identified other options for moving the Restitution Fund towards long-term solvency. One of the options is to increase the local match required for the Witness Protection Program currently administered by DOJ. State law currently requires a 25 percent local match for local agencies that apply for reimbursement from the state for witness protection expenditures.

The LAO also recommends that the Legislature evaluate the other programs supported by the Restitution Fund and determine whether they should be supported over the long-term by the Restitution Fund. Finally, the LAO recommends that the Legislature also evaluate the higher rates paid to providers of victim compensation services to determine if these rates can be sustained over the long-term.

LAO Budget Option. As mentioned above, the LAO estimates that the Restitution Fund will become insolvent in the next five years if actions are not taken to reduce expenditures and/or increase expenditures to the fund. Nevertheless, the LAO recommends that the Legislature consider, as an option, a transfer of as much as $45 million from the Restitution Fund to the General Fund as a one-time budget solution. The LAO finds that the Restitution Fund will face insolvency whether or not a portion of the fund's balance is transferred to the General Fund.

Restitution Fund Bailed Out in 1993-94. Staff finds that the Restitution Fund was bailed out by the General Fund in 1993-94. The Governor and the Legislature agreed to appropriate $44 million from the General Fund to eliminate a backlog of approved claims. The next year statute was enacted to impose a new diversion restitution fee to be charged to any person charged with a felony or misdemeanor whose case was diverted by the court. This statute change was estimated to generate $20 million in additional revenues annually and helped to make the fund solvent.

LAO Finds Restitution Collection Could Be Improved. The LAO finds that it is possible to improve the solvency of the Restitution Fund by increasing the collection of some of the revenues that flow into the fund from the collection of restitution orders. The LAO has recommended that the Legislature evaluate several alternatives for improving the collection of restitution. These alternatives include the following:

- Impose additional financial asset disclosure requirements on criminal defendants.
- Increase county financial incentives (currently 10 percent of what is collected) for participation in collection efforts.
- Model restitution collection efforts on those used in the collection of child support.
- Extend the ability of state and local agencies to continue collection efforts after a defendant has been released on parole or from probation.
- Improve recordkeeping on the amount owed by defendants that is accessible to state and local officials involved in collection efforts.
- Encourage superior court judges to garnish the wages of individuals who are behind in restitution payments.
- Require defendants to appear before a judge if they fail to pay restitution as is currently done in Alameda and Santa Clara Counties.

The LAO recommends that the Legislature request an audit to explore the feasibility of pursuing one or more of the alternatives listed above to improve the state's collection of restitution payments. An audit of the VCGCB was recently approved by the Joint Legislative Audit Committee. However, the audit did not include in its scope, efforts to improve restitution recovery.

Staff Comments. Staff finds that the Restitution Fund has a significant reserve and a one-time transfer to the General Fund would not have a significant impact on the long-term solvency of the Restitution Fund if other changes are not made to reduce expenditures or increase revenues to the fund.

Staff Recommendation. Staff recommends that the Subcommittee:

- Request that staff, with input from the LAO, DOF, and the board, consider options for transferring a portion of the reserves in the Restitution Fund to the General Fund on a one-time basis.
- Approve trailer bill language and budget changes to transfer the administration of the Witness Protection Program from DOJ to the VCGCB and require that the board structure the program to maximize federal matching funds.
- Reduce Restitution Fund support by $3 million to its 06-07 funding level and increase federal fund $1.8 million support by a like amount for the Witness Protection Program. Approve trailer bill language to increase the local matching requirement from 25 percent to 75 percent to help address structural deficit in the Restitution Fund.
- Request that staff, LAO, DOF, and the board develop an audit request to explore options for enhancing revenue collections to the Restitution Fund.

2. Administrative Costs

Background. The VCGCB does not separately track the administrative costs of the VCP and the Government Claims Program. In addition, administrative expenditures and direct payments to crime victims are also commingled in the same budget item, which makes it extremely difficult to track the efficiency of the current VCP.

Governor's Budget. It is not possible to identify total administration costs with complete accuracy. The Governor's budget labels $10.2 million as administrative expenditures for the budget year. However, the expenditures labeled as administrative expenditures are not representative of all of the administrative expenditures of the board.

LAO Finds VCP Administrative Expenditures Relatively High. The LAO has estimated that administrative costs for the VCP were about $39 million or 31 percent of the state and federal funding it receives annually for the program. The LAO found that this level of administrative costs was relatively high when compared with other states that had administrative costs that ranged from 5 percent to 32 percent. The LAO does note that victim compensation programs vary widely among states; thereby what constitutes administrative costs can also vary significantly across different states. Furthermore, the board indicates that it engages in many state functions that are not direct services to victims, but are also not strictly administrative functions. For example, the board engages in the development of educational materials and the ongoing development of local victim service providers.

The board has also indicated that it is taking steps to reduce administrative costs and improve the effectiveness of its programs. For example, the board recently completed its transition to an Internet-based system for processing claims. The board also intends to reorganize the manner in which it assigns employees to process claims, which should improve the efficiency of the board.

The LAO recommends that the Legislature direct the Administration to establish separate budget items and displays in the Governor's budget for the administrative costs of the VCP and Government Claims Board. The LAO recommends supplemental report language to direct this change. The Administration concurs with this recommendation and has agreed to make these changes in the next budget.

Audit of VCP Approved. On March 12, 2008, the Joint Legislative Audit Committee (JLAC) approved an audit of the VCGCB that was submitted by Assembly Member Leno and Senator Calderon. The audit will focus on the expenditures made out of the Restitution Fund, including an analysis of the VCP administrative expenditures. The audit will also focus on the board's current process for outreach to victims of violent crime and review the application and approval process of the board. The LAO has also recommended that an audit be conducted to determine the relative efficiency of the board's processing of victim claims. Staff finds that this audit should address the administrative issues raised by the LAO.

In addition, staff finds that during 2007 budget deliberations this Subcommittee inquired about alternative ways the board was outreaching to victims, especially vulnerable populations like the homeless. At that time, the board indicated that it was working on a report to assess the cost of replicating the Trauma Recovery Center pilot that had been conducted at San Francisco General

Hospital. This report was requested by the Governor in his signing message of Chapter 884, Statutes of 2006 (AB 50, Leno). This report was never received by the Subcommittee and it is unclear to staff whether this report was ever completed. Staff finds that the JLAC audit will focus specifically on the board’s outreach efforts and how it currently targets its efforts to reach the most vulnerable populations in the state.

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

- Approve supplemental report language regarding a new budget display for the board that includes administrative costs.

8120 Commission of Peace Officer Standards and Training

Background. The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency levels of law enforcement officers in California by establishing minimum selection and training standards, improving management practices, and providing financial assistance to local agencies relating to the training of law enforcement officers.

Governor's Budget. The Governor's budget proposal includes $63.6 million from special funds to support POST in the budget year. This is about the same level of funding that is estimated for expenditure in the current year.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Standards	$5,557	$5,675	$118	2.1
Training	36,015	35,952	-63	-0.2
Peace Officer Training	21,944	21,944	0	0.0
Administration	6,334	6,484	150	2.4
less distributed Administration	*-6,334*	*-6,484*	*-150*	*0.0*
Total	$63,516	$63,571	$55	0.1
Funding Source				
Peace Officers' Training Fund	61,757	60,312	-1,445	-2.3
Antiterrorism Fund	500	2,000	1,500	300.0
Budget Total	*62,257*	*62,312*	*55*	*0.1*
Reimbursements	1,259	1,259	0	0.0
Total	$63,516	$63,571	$55	0.1

1. Anti-Terrorism Training—Informational Item

Background. Recent legislation (Chapter 392, Statutes of 2007 [AB 587, Karnette]) appropriated $5 million from the new Anti-terrorism Fund to develop anti-terrorism training courses and to reimburse local public safety agencies for anti-terrorism training activities. Approximately $2.5 million was allocated to the Office of Emergency Services for the California Fire Fighter Joint Apprenticeship Program. The other $2.5 million was allocated to POST to develop anti-terrorism training courses and reimburse local law enforcement agencies that employ peace officers that participate in the training program.

The Anti-Terrorism Fund was created by Chapter 38, Statutes of 2002 (AB 1759, Wesson) and is supported by the sale of Memorial license plates honoring the victims of the September 11, 2001 terrorist attacks.

Governor's Budget. The Governor's budget assumes that $2 million from the Anti-terrorism Fund will be expended in the budget year. These funds were appropriated in legislation (AB 587, Karnette) passed last year so there is no budget change proposal accompanying this budget change.

2. Peace Officers' Training Fund

Background. The Commission's main funding source is the Peace Officers' Training Fund. The main revenues supporting this fund are state penalties and fines. Current law allocates a portion of the penalties and fines collected by the state directly to the Peace Officers' Training Fund. In addition, the budget Control Section 24.10 also allocates a portion of the fines and penalties deposited in the Driver Training Penalty Assessment Fund to the Peace Officer's Training Fund. If statute did not dictate how these fines and penalties were directed these revenues would be deposited in the General Fund.

Governor's Budget. The Governor's budget projects that revenues to the Peace Officers' Training Fund will be $56.6 million in the budget year. The Governor's budget also includes Control Section 24.10 that proposes to allocate $14 million from the Driver Training Penalty Assessment Fund to the Peace Officers' Training Fund in the budget year. The Peace Officers' Training Fund is projected to end the budget year with a reserve of $22 million.

Staff Comments. Staff finds that the Governor did not propose a 10 percent reduction to the budget for the Commission even though support for the Commission is from revenues that can be transferred to the General Fund. Staff finds that a 10 percent reduction to the Commission's budget would require the Commission to reduce training offerings and reimbursements to local governments in the budget year.

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

- Amend Control Section 24.10 to reduce the allocation of Driver Training Penalty Assessment Fund revenues to the Peace Officers' Training Fund by $6 million. This will approximate a 10 percent reduction for the Commission and will increase General Fund revenues accordingly.

0552 Office of the Inspector General

Background. The Office of the Inspector General (OIG) oversees the state's correctional system through audits, special reviews, and investigations of the California Department of Corrections and Rehabilitation (CDCR). The Office is also charged with evaluating the qualifications of candidates being considered by the Governor for appointment to warden of a correctional facility or superintendent of a juvenile facility. The Office also monitors internal affairs investigations conducted by CDCR to ensure they are performed in a timely and professional manner.

Governor's Budget. The Governor's budget proposal includes $23.9 million General Fund to support the OIG in the budget year. This is a 25 percent increase over estimated expenditures in the current year. This increase is primarily due to an augmentation to fully fund the OIG's audits and investigation workload and to implement new monitoring programs directed by court monitors in CDCR lawsuits.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
State Operations	$19,170	$25,552	$6,382	33.3
Total	$19,170	$25,552	$6,382	33.3
Funding Source				
General Fund	$19,170	$25,552	$6,382	33.3
Budget Total	*19,170*	*25,552*	*6,382*	*33.3*
Total	$19,170	$25,552	$6,382	33.3
Budget Balancing Reduction	0	-1,672	-1,672	0.0
Total	$19,170	$23,880	$4,710	24.6

1. Bureau of Audits and Investigations and General Administration

Budget Balancing Reductions. The Governor is proposing a 10 percent reduction to OIG's budget. The OIG is planning to reduce its Bureau of Audits and Investigations by $1.5 million and its Executive Administration by $202,000. The reduction to the Bureau of Audits and Investigations would reduce the OIG's audit capacity as follows:

- Reduce the audit cycle from every four years to every five years for audits of the adult and juvenile institutions and warden and superintendents.

- Reduce Special Review reports from 14 to 13 per year.
- Reduce follow-up audits of Management Review audits by 25 percent.
- Reduce number of warden candidates that can be vetted annually from 12 to 10 and reduce number of superintendent candidates that can be vetted annually from 10 to 8.
- Perform one less large-scale investigation and one less fraud investigation per year.

In addition, the OIG estimates that it will reduce the amount of complaints it can process annually by about 11 percent. The Governor has proposed trailer bill language to implement this reduced audit schedule.

The OIG reports that the impacts of the reduction to the Executive Administration will result in delays in various human resource processes and a general reduction in the OIG's ability to support its staff administratively.

Governor's Budget. The Governor's budget also includes several budget proposals to augment the OIG's budget. These proposals include a total of $6.4 million from the General Fund, which includes $1.8 million for court-driven expenditures (see description below). The remaining budget augmentations are to the Bureau of Audits and Investigations ($3.8 million) and general administration ($690,000).

The augmentation to the Bureau of Audits and Investigations is based on a workload analysis that finds that its current staffing resources are short approximately 20 positions to implement all of its statutorily mandated work. The augmentation for general administration would support six positions to support ongoing administrative and information technology functions that have suffered from under-investment as the office has grown over the past decade.

These budget augmentations, taken together with the budget balancing reductions, provide the Bureau of Audits and Investigations with an additional $2.3 million General Fund in the budget year. General administration would be augmented by $488,000 General Fund.

LAO Recommendation. The LAO reports that the OIG is currently performing most of its mandated work audits and investigations work within its existing resources. Furthermore, the LAO reports that the OIG has provided little evidence that the OIG has been unable to complete its work at its current administrative and information technology staffing levels. Therefore, the LAO recommends denying the augmentations proposed for the Bureau of Audits and Investigations and general administration.

Furthermore, the LAO also recommends that the Legislature adopt the budget balancing reductions. If the budget proposals are rejected and the budget balancing reduction is adopted this will result in a real reduction to the OIG's budget of $1.5 million and $202,000 in the Bureau of Audits and Investigations and general administration, respectively. The LAO's analysis finds that the OIG could sustain this level of reductions with relatively minimal impact on operations because of existing vacancies in its Bureau of Audits and Investigations. Furthermore, given the state's fiscal condition, the LAO believes that the modest reduction to the OIG's administration resources is also warranted.

Staff Comments. Staff finds that the proposed reductions to the OIG's audit functions do reduce its overall audit oversight by reducing the frequency in which audits are performed. Nevertheless, given the significant structural deficit the state is facing and the expanded duties the OIG is being directed to implement by the courts, the budget balancing reductions proposed by the Governor appear to have the least impact on the OIG's oversight responsibilities.

Staff finds that the augmentation proposed for the Bureau of Audits and Investigations is justified on a workload basis. Evidence does suggest that the OIG is completing most of its mandated workload. Nevertheless, the OIG has indicated to staff that this level of work is not sustainable over the long-term and could have impacts on the ability of OIG to retain staff.

Staff finds that OIG's staffing has increased significantly over the past several years. This increase has put increased strain on its administrative resources including information technology. Furthermore, the OIG reports that the current low ratio of administrative staff reduces productivity of the inspectors general because they have to spend considerable time on administrative tasks. Nevertheless, staff concurs with the LAO that a workload analysis has not been submitted to justify the additional positions.

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

- Approve half of the proposed augmentation for the Bureau of Audits and Investigations and approve the budget balancing reduction to this item, which would result in a $400,000 augmentation to the OIG's budget.
- Reject the proposed augmentation for general administration and reject the budget balancing reduction to this item, which would result in no net change to the OIG's administrative resources.
- Approve trailer bill language to implement the budget balancing reductions for the Bureau of Audits and Investigations.

These actions would result in $2.4 million in additional savings as compared to the Governor's budget.

2. New Court-Ordered Functions

Background. It is well know that CDCR has faced increased scrutiny from the federal courts over the past decade for various violations of the U.S. Constitution, including the Eighth Amendment (prohibition of cruel and unusual punishment) and the Fourteenth Amendment (right to due process and equal protection). Two of the class action lawsuits that have been brought against the state included the *Madrid* case that alleged CDCR condoned a pattern and practice of using excessive force against inmates and the *Plata* case that alleged that inmates were denied constitutionally adequate health care. In both cases the federal courts found evidence to support the alleged claims and appointed a Special Master and a Receiver, respectively, to develop and implement a plan to remedy the violations of the U.S. Constitution.

Under the *Madrid* case, CDCR has faced continued scrutiny from the federal court for failing to regularly and adequately review use-of-force incidents and for not imposing adequate disciplinary action when allegations of excessive force are proven. In January 2005 the Bureau of Independent Review was created within the OIG to oversee CDCR's process for addressing use-of-force incidents. In May 2007 revised protocols were adopted to require OIG special assistant inspectors general to attend CDCR use-of-force committee meetings on a regular basis at each adult institution.

Under the *Plata* case, CDCR has agreed to implement a medical investigation pilot project. As part of this project, the CDCR Office of Internal Affairs (OIA) is establishing a Medical Investigations Unit to perform expedited investigations of misconduct by CDCR health care staff. In addition, the CDCR Employment Advocacy and Prosecution Team (EAPT) is establishing a Medical Prosecution Unit to perform expedited disciplinary actions if warranted. The Receiver has furthermore requested that the OIG conduct independent oversight of the new OIA and EAPT similar to the way it is currently reviewing CDCR's process for addressing use-of-force incidents.

Governor's Budget. The Governor's budget includes two budget proposals to address increased workload driven by the federal courts. These budget proposals include the following:

- ***Madrid*** **–** $890,000 General Fund ($784,000 one-time) to establish four new positions to ensure regular attendance at as many use-of-force committee meetings as possible, but no less than monthly at each adult institution.
- ***Plata*** - $878,000 General Fund to establish five new positions to implement a new pilot project to monitor CDCR's investigatory and disciplinary processes of CDCR health care staff.

LAO Recommendation. The LAO recommends approving the two budget proposals related to compliance with the *Madrid* and *Plata* cases, respectively.

Staff Recommendation. Staff recommends that the Subcommittee approve both the budget proposals related to the *Madrid* and *Plata* cases.

0820 Department of Justice

Background. The Department of Justice (DOJ) is under the direction of the Attorney General. The Attorney General is elected by the public and is required by the California Constitution, as the chief law officer of the state, to ensure that California's laws are uniformly and adequately enforced. The DOJ also serves as the state's primary legal representative and provides various services to assist local law enforcement agencies. The DOJ is organized into the following seven programmatic functions:

- **Civil Law—**Represents the state in civil matters and is organized in the following sections: Business and Tax; Correctional Law; Employment, Regulation and Administration; Government Law; Health, Education and Welfare; Health Quality Enforcement; Licensing; and Tort and Condemnation.
- **Criminal Law—**Represents the state in all criminal matters before the Appellate and Supreme Courts. The Criminal Law Program also assists district attorneys and conducts criminal investigations and prosecutions where local resources are inadequate.
- **Public Rights—**Provides legal services to all state agencies and constitutional officers and is organized in the following issue areas: Civil Rights and Enforcement; Charitable Trusts; Natural Resources; False Claims; Energy and Corporate Responsibility; Indian and Gaming Law; Environmental Law; Land Law; Consumer Law; Antitrust Law; and Tobacco Litigation Enforcement.
- **Law Enforcement—**Provides various services to local law enforcement and is organized into the following five elements: (1) the Bureau of Investigation conducts criminal investigations of statewide importance; (2) the Bureau of Narcotic Enforcement provides leadership, coordination, and support to law enforcement to combat the state's narcotic problem; (3) the Bureau of Forensic Services provides evaluation and analysis of physical crime evidence for state and local law enforcement; (4) the Western States Information Network provides an automated database of suspected criminal elements to law enforcement in neighboring states; and (5) the Criminal Intelligence Bureau shares criminal intelligence regarding organized crime, street gangs, and terrorist activity to other law enforcement agencies.
- **California Justice Information Systems—**Provides criminal justice information and identification services to law enforcement, regulatory agencies, and the public.
- **Gambling Control—**Regulates legal gambling activities and ensures that gambling on tribal lands is conducted in conformity with a gaming compact.
- **Firearms—**Provides oversight and regulation of firearms in California.

Governor's Budget. The Governor's budget proposal includes $791 million to support DOJ in 2008-09. General Fund support for the department is about $380.8 million, which is about $36 million less than what is estimated for expenditure in the current year. The DOJ has a large increase in Directorate and Administration due to a proposed consolidation of various administrative functions that were previously budgeted in various other programs. The reduction in General Fund support is due to the Governor's across-the-board 10 percent reduction proposed for agencies supported by the General Fund.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Directorate and Administration	$30,570	$96,117	$65,547	214.4
less distributed Administration	*-30,570*	*-96,117*	*-65,547*	*0.0*
Legal Support and Tech Admin	54,036	0	-54,036	-100.0
less distributed Legal and Tech	*-54,036*	*0*	*54,036*	*0.0*
Executive Programs	16,469	0	-16,469	-100.0
Civil Law	146,992	149,321	2,329	1.6
Criminal Law	123,130	136,879	13,749	11.2
Public Rights	89,824	91,352	1,528	1.7
Law Enforcement	269,209	280,141	10,932	4.1
California Justice Information Services	189,276	175,257	-14,019	-7.4
Subtotal	$834,900	$832,950	-$1,950	-0.2
Budget Reduction Proposals	0	-41,605	-41,605	0.0
Total	$834,900	$791,345	-$43,555	-5.2

Budget Balancing Reductions. The Governor is proposing a 10 percent unallocated General Fund reduction to DOJ's budget. This would result in a reduction of $41.6 million General Fund across all program areas. This would reduce DOJ expenditures to a level below estimated expenditures in the current year.

The Governor has proposed a few General Fund augmentations to DOJ's budget in 2008-09. Nevertheless, if the Governor's budget was adopted, DOJ would still realize a net reduction in General Fund expenditures of about $36 million.

Likely Impact of Reduction. The LAO estimates that a reduction of this magnitude would likely impact DOJ's operations, which fall primarily into two categories: (1) legal representation of the state and its various departments, and (2) law enforcement. The LAO notes that reductions to DOJ's ability to provide legal representation may actually result in increased state costs since some state agencies may have to retain more costly private counsel instead of retaining DOJ attorneys for legal representation. Therefore, the LAO estimates that any sizeable reduction to DOJ operations would be borne mainly by its law enforcement programs.

The LAO has put forward two options for reducing DOJ's budget that minimize the impacts on DOJ's ability to fulfill its mission of representing the state's legal interests and protecting public safety. These options include: (1) eliminating vacant positions, and (2) charging state and local agencies lab fees.

1. Eliminate Vacant Positions

LAO Option – Eliminate Vacant Positions. The LAO has identified that department-wide, DOJ, has a relatively high vacancy rate (15 percent). This vacancy rate translates to 860-plus vacant positions as of January 2008. Generally, the state budgets for a 5 percent vacancy rate, which assumes a normal level of delays in hiring and turnover.

The LAO has identified nine sections and bureaus within DOJ that have an average vacancy rate of 20 percent and represent almost 60 percent of the total vacancies in the entire department. The salary and benefits of these positions represent nearly $32 million. The nine sections and bureaus with high vacancy rates are listed in the table below:

Section/Bureau	Vacant Positions	Total Authorized Positions	Vacancy Rate
Legal Secretaries (Executive Unit)	25.9	36.9	70%
Bureau of Medi-Cal Fraud and Elder Abuse	34.0	204.0	17%
California Bureau of Investigation	23.0	129.5	18%
Mission Support Branch	36.1	122.1	30%
Bureau of Narcotics Enforcement	114.3	411.8	28%
Bureau of Forensic Services	79.0	405.0	20%
Criminal Intelligence Bureau	53.0	166.1	32%
Hawkins Data Center Bureau	48.0	336.3	14%
Bureau of Criminal Identification and Information	94.5	708.0	13%
Totals	**507.8**	**2,519.7**	**20%**

The LAO recommends eliminating about 200 of the 500 positions identified in the nine sections and bureaus with high vacancy rates. Under the LAO's recommendation, there would be $13.5 million in General Fund savings and each of the sections and bureaus would still be left with sufficient funds to support a higher than normal 10 percent vacancy rate.

Staff Comments. Staff finds that there are long standing recruitment and retention issues in various classifications at DOJ and many of these positions have likely been vacant for years. In 2007 the LAO reported that 41 percent of DOJ's criminalist positions at the central DNA laboratory in Richmond, California were vacant. Many of DOJ's positions are considered hard to fill positions, which makes them exempt from current law that abolishes positions that have been vacant for six consecutive months.

Staff finds that in many cases there is a need for the services that would be provided if the vacant positions were filled. However, if the department fails to fill these positions year after year the increased level of service is never provided and the funds to support the positions continue to be budgeted. The LAO has found that its review on vacant positions that in many cases, departments have redirected vacancy savings to fund other department activities. This practice reduces legislative oversight over state expenditures.

The LAO has also recommended the following options for generally addressing departments with long standing vacant position problems: (1) regular examination of department vacancies during the budget process; (2) requesting audits of departments with vacancy problems, and (3) periodic zero-based budgeting for departments with vacancy problems.

Staff finds that the LAO's recommendation to eliminate some of DOJ's long-standing vacant positions is a reasonable plan for achieving short-term budget savings. However, it will be important for the Legislature to evaluate the services currently being provided by DOJ to determine if they are adequately meeting statutory mandates. If the current level of staffing is not sufficient to meet statutory mandates, additional positions may need to be restored in the future, provided the department is able to successfully recruit and retain qualified candidates for the positions.

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

- Approve the LAO's recommendation to eliminate vacant positions and reduce DOJ's budget by $13.5 million General Fund. (This reduction should be counted towards the across-the-board target set by the Governor.)
- Request staff, the LAO, DOF, and DOJ to work on a process for identifying positions for elimination and budget bill language to guide this process.

2. Charging State and Local Agencies Lab Fees

Background. The DOJ's Law Enforcement Section has a Bureau of Forensic Services that operates 11 full-service criminalistic laboratories throughout the state. These laboratories provide analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes.

While the DOJ labs provide some services to state agencies, they primarily serve local law enforcement agencies in jurisdictions without their own crime labs. These local agencies are found in 46 out of the 58 counties representing approximately 25 percent of the state's population. All of the major urban areas in California have their own crime labs or maintain contracts with other agencies for laboratory services.

The DOJ crime labs generally do not charge for the services they provide to state and local agencies, except for blood alcohol and some drug toxicology tests that have been paid for by local agencies since 1977.

Governor's Budget. The Governor's budget includes $92 million to support DOJ's 11 criminalistic laboratories. The budget assumes that 70 percent of this budget will be supported by the General Fund ($64 million).

The Governor's budget also includes $646,000 one-time from the General Fund to support maintenance and repairs for the department's forensic laboratories.

LAO Option – Charge State and Local Agencies Lab Fees. The LAO recommends that the Legislature require state and local agencies to pay for the laboratory services provided them by DOJ. The LAO estimates that by charging local law enforcement agencies for lab services, the Legislature could reduce General Fund support for the state's criminalistic labs by approximately $41 million due to (1) the creation of new revenue and (2) a reduction that is likely to result in the number of cases processed by the labs. The LAO finds that in 1992-93 when DOJ started charging the true cost of processing blood alcohol tests, the number of tests declined by 29 percent the next year. The LAO finds that many agencies started contracting with other providers who charged less than the state, thereby saving the state and the local agency money.

The LAO indicates that they have consistently made this recommendation because developing physical evidence through laboratory analysis is part of local law enforcement responsibility for investigating and prosecuting crimes. Therefore, the LAO finds that these expenditures should be borne by the counties and cities regardless of the state's fiscal condition. The LAO also points out that law enforcement agencies in 12 counties already do obtain laboratory services through the operation of their own laboratories or by relying on other agencies. The LAO also notes that the Federal Bureau of Investigation offers local law enforcement, free of charge, all forensic services in criminal matters, unless the request for assistance originates in a laboratory that could handle the matter itself.

The LAO has raised several implementation issues that will need to be addressed if the Legislature were to move toward a fee-based system for financing the state's criminalistic labs. These issues include the following:

- Fee structure should mitigate unusually high costs for complex investigations.
- Efforts should be made to ensure stable funding is provided to support the state's criminalistic labs.
- Fees for services should be commensurate with the costs to provide the service.
- The budgets for other state agencies that utilize DOJ's criminalistic labs should be adjusted to cover the cost of the new fee schedule.

Staff Comments. Staff finds that the LAO's option would minimize the public safety impacts of the Governor's proposed reduction to DOJ's budget. Given the magnitude of the proposed reduction it is likely that DOJ would have to reduce its lab efforts, which may increase the backlog of services it provides to local law enforcement and other state agencies. If an appropriate fee schedule was put in place the department would be able to maintain its lab services and may actually be able to enhance certain services.

Staff finds that DOJ currently does not have a base budget for operations and maintenance of its forensic facilities. Therefore, DOJ submits annual requests for relatively routine maintenance of its buildings.

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

- Request that staff, LAO, DOF, and DOJ develop a plan for reducing the General Fund support for the state forensic labs, including raising fees for selected lab services.
- Approve the budget request to augment General Fund to support maintenance and repairs for the department's forensic laboratories and make $225,000 ongoing to support routine maintenance related to fire, life, and safety.

3. Correctional Law: Class Action and Civil Lawsuits

Background. Currently, the Correctional Law Section within the Civil Division of DOJ performs two types of work for the California Department of Corrections and Rehabilitation (CDCR). First, they defend the state in state and federal correctional habeas corpus litigation and secondly, they defend the state in civil litigation and class action cases.

Civil suits against CDCR are brought by individual inmates or parolees seeking damages or injunctive relief for alleged violations of their civil rights.

Class actions are suits brought by large groups of inmates or parolees (often exceeding 10,000 class members) challenging conditions or policies affecting inmates or parolees. Class actions can often last decades, as once liability is determined the cases usually move into a post judgment of post settlement enforcement stage. Currently, there are 25 class action lawsuits filed against CDCR.

Governor's Budget. The Governor's budget proposal includes $2.3 million from the General Fund to establish 13.1 positions (4 attorneys) to defend CDCR in various class action and civil lawsuits.

Staff Comments. Last year, the Legislature approved $2.2 million from the General Fund (8 attorneys) to DOJ's efforts to defend the state in civil and class action cases. This augmentation increased the number of attorneys working on these cases by about 60 percent. DOJ currently is dedicating $6 million to the defense of the state in the class action lawsuits. Staff has not been provided with information that suggests workload has increased significantly or is projected to increase with respect to the class action lawsuits that have been brought against the state.

Furthermore, staff finds that CDCR also has significant legal resources dedicated to defending the state in class action lawsuits.

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

- Reject the budget proposal. (This reduction should be counted towards the across-the-board target set by the Governor.)

4. Correctional Law: Habeas Corpus Lawsuits

Background. Currently, the Correctional Law Section within the Civil Division of DOJ performs two types of work for the California Department of Corrections and Rehabilitation (CDCR). First, they defend the state in state and federal correctional habeas corpus litigation and second, they defend the state in civil litigation and class action cases. The habeas corpus litigation can be divided into three categories: (1) challenges to the denial of parole to inmates sentenced to life imprisonment; (2) matters relating to parole revocation such as timeliness of revocation hearings, sufficiency of evidence, or due process issues; and (3) other issues such as challenges to disciplinary hearings, sentence credit calculations, and conditions of confinement. Over half of the habeas corpus workload is related to “lifer” parole denials.

Federal habeas corpus cases have increased significantly in the last several years; in part, due to a significant increase in the number of parole hearings for life inmates held by the Board of Parole Hearings. Furthermore, inmates no longer need permission from the court before filing federal habeas corpus appeals per the federal court’s *Rosas* decision. This change is expected to lead to a large number of appeals of federal habeas corpus cases.

Governor’s Budget. The Governor’s budget proposal includes $4.3 million from the General Fund to establish 26.2 positions (13 attorneys) to support a projected increase in federal habeas corpus workload.

LAO Finds Increase Not Justified. The LAO finds that workload data provided by the department do not support an augmentation of the level proposed in the budget. The LAO recommends that this budget proposal be reduced by $1.8 million General Fund and 13 positions. Under the LAO’s recommendation, the department would still get 6.5 additional attorney positions.

Staff Comments. Last year, the Legislature approved $3.4 million from the General Fund (12 attorneys) to support the increase in federal habeas corpus workload, which was a 60 percent increase to existing resources. The DOJ currently dedicates $9 million to support this activity. The budget proposal would increase resources for the federal habeas corpus workload by another 50 percent. Staff recognizes that there has been some growth in the federal habeas corpus workload, but given the state’s fiscal conditions staff finds that the DOJ could do more to prioritize its workload within its existing resources.

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

- Reject the budget proposal. (This reduction should be counted towards the across-the-board target set by the Governor.)

5. *Underwriters* Litigation – Stringfellow Toxic Waste Site

Background. Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) the state was found liable for the clean-up of the Stringfellow toxic dumpsite. An investigation by the DOJ revealed that between 1963 and 1978 the state’s activities involving the Stringfellow site were covered by three dozen insurance policies. In order to get some coverage from these policies, the state sued five of its largest insurers (*Underwriters* lawsuit), which collectively provided 70 percent of the state's insurance coverage. In 2002, the state filed a related case (*Allstate* lawsuit) against its 26 remaining insurers which provided the remaining 30 percent of the state's insurance coverage. The *Underwriters* case has recovered more than $121 million from various insurance providers.

Governor's Budget. The Governor's budget proposal includes $2.9 million from the General Fund to continue funding specialist counsel with expertise in insurance coverage litigation and to support 2.6 positions to continue the *Underwriters* litigation.

***Underwriters* Litigation Continues.** Last year, the Legislature approved $4.2 million General Fund to continue with a class action lawsuit against insurance companies referred to as the *Underwriters* litigation. This litigation is against insurance companies that reneged on insurance coverage held by the state on the Stringfellow hazardous waste dump, thereby leaving the state with significant outstanding costs to clean up this site. The DOJ has recovered more than $120 million from insurance companies in this lawsuit thus far.

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

6. Gang Suppression Enforcement Teams

Background. Four Gang Suppression Enforcement Teams (GSET) were created within the Bureau of Narcotics Enforcement at DOJ for a limited term in the 2006-07 Budget Act. The goal of these teams was to provide leadership to local law enforcement in suppressing multi-jurisdictional violent crimes by using innovative investigative techniques to disrupt gang criminal activities and dismantle their membership. The main focus of the GSET is to target the leadership and organizational structure of criminal street gangs.

The department submitted a report to the Legislature in January of this year that summarizes the work of the GSET to date. The report describes two cross-jurisdictional investigations that were centered in Stockton and Atwater. The department also describes their involvement in about 60 other cases that mainly seem to be direct assistance to local law enforcement with gang suppression efforts. The department has reported that because of their joint efforts 119 arrests have been made and 148 numerous charges have been filed on the persons arrested.

Governor's Budget. The Governor's budget includes $5.3 million to permanently establish the four GSETs that were temporarily established in the 2006-07 Budget Act. These funds will support 33.6 positions at DOJ and external consulting contracts.

Staff Comments. Staff finds that the GSETs were successful in assisting in two cases that involved multiple jurisdictions. In these cases it does appear that DOJ did add value to investigations that were initiated locally. Otherwise, staff finds that the majority of GSET activities directly assisted local law enforcement in local gang suppression activities. Local law enforcement activities, such as gang suppression, are generally not the responsibility of the state.

Therefore, staff finds that the majority of the efforts by the GSETs would be more appropriately funded locally.

Staff finds that DOJ has significant law enforcement resources other than the GSET teams. The department has a significant narcotic enforcement branch that could increase its focus on gang intelligence efforts given the overlap of drug trafficking and street gangs.

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

- Reject the budget proposal to extend the GSETs.

7. Restructure of Administrative Programs

Background. Three of DOJ's current divisions include the following:

- **Division of Administrative Support –** The mission of this division is to provide assistance and support services to the department's line programs.
- **Division of Legal Support and Technology** – The mission of this division is to provide law office management, legal document processing, research, information, electronic discovery, and litigation support.
- **Division of Executive Programs –** This program consolidates all other functions that are not directly related to the office's litigation or law enforcement responsibilities. The division is comprised of 12 units, including communications, legislative affairs, and program reviews and audits.

The DOJ reports that there are three programs within the Division of Executive Programs that are not administrative and that provide direct services or benefits to California citizens. These programs are:

- **Crime Violence Prevention Center –** This center initiates and promotes policies and programs that improve the quality of life for Californians through the prevention and reduction of crime and violence.
- **Office of Victim Services –** This office leads California's fight toward preserving the rights of crime victims through responsive programs, accessibility of services, and progressive legislation.
- **Office of Native American Affairs** – This office serves as liaison and addresses justice-related issues for California's Indian citizens who reside on reservations, rancherias, and in urban communities for the overall improvement of the quality of life for Indian people.

The DOJ reports that the Crime Violence Prevention Center and the Office of Victim Services have a combined budget of $4.7 million and 40 positions. The Office of Native American Affairs is supported by $326,000 and two positions.

Governor's Budget. The Governor's budget proposes to consolidate DOJ's administrative functions. This proposal would consolidate the existing Division of Administrative Support, the Division of Legal Support and Technology and the majority of the Division of Executive Programs into a single Administrative function. The proposal also would transfer the three non-administrative programs from the Division of Executive Programs to the Criminal Law Division. The budget does not propose a fiscal impact related to this proposal.

Staff Comments. The DOJ does not report any direct savings related to this budget proposal, but the goal of the consolidation is to make better use of its administrative resources to support DOJ functions. Staff finds that some administrative savings may result from this consolidation.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the budget proposal to consolidate administrative functions and transfer three programs that provide direct services to the Criminal Law Division.

8. Cardrooms – Compliance and Enforcement

Background. The Gambling Control Act establishes DOJ as the investigatory branch of the state's regulation of legal gambling. The Bureau of Gambling Control is responsible for investigations and inspections of gambling operations in the state. The Bureau is also responsible for conducting background checks on personnel and vendors associated with the gambling operations. The investigations done by the Bureau are the basis for suitability determinations and administrative actions by the Gambling Control Commission.

Governor's Budget. The Governor's budget proposes $1.7 million from the Gambling Control Fund to support 11 permanent positions to address increased compliance and enforcement workload in the State's 91 cardrooms. The DOJ reports that this augmentation will provide four additional agents for investigations, four additional agents for compliance investigations, and three agents to conduct additional background investigations.

Staff Comments. Staff finds that the popularity of card games like Texas Hold'em and others have increased significantly and nearly doubled gross annually gaming revenues from cardrooms over the past decade. The DOJ indicates that the Bureau's investigatory resources have not been able to keep up with this growth and they now have a backlog of 145 cases related to the state's cardrooms.

Staff finds that the Gambling Control Fund is very close to having a structural deficit. Furthermore, staff finds that recent legislation (Chapter 438, Statutes of 2007 [SB 730, Florez]) changed license renewal fees to a bi-annual process. It is unclear what impact this change will have on revenues to the Gambling Control Fund in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:
- Reject the proposed expansion until revenue impacts of recent legislation on the Gambling Control Fund are determined.

9. Greenhouse Gas Emissions Reduction Litigation

Background. The department is currently defending the state's adoption of legislation (AB 1493, Pavley), in 2002, that requires the Air Resources Board (ARB) to adopt regulations to achieve a reduction of greenhouse gas emissions from vehicles manufactured in model year 2009 and later. The DOJ is also working on other litigation and projected litigation related to other regulations adopted by ARB.

Governor's Budget. The Governor's budget proposes $1.9 million from the Legal Services Revolving Fund to support 9.8 positions permanent positions (4 attorney positions) to respond to increased litigation workload required by DOJ's client/agency the Air Resources Board. This request includes $500,000 for external consultant funding for experts.

The ARB has a corresponding budget proposal to fund these litigation expenses with $1.9 million from the Motor Vehicle Account.

Staff Comments. The DOJ indicates that the increase in litigation expenses is mainly due to the industry plaintiffs' choice to pursue a factual challenge as a separate basis for their litigation. In the past, lawsuits filed against the ARB have mainly contested ARB's legal authority for a particular regulation and have not challenged facts of the case. The DOJ indicates that this fundamental shift to litigation that is based on factual challenges has increased the complexity of the cases and requires specialized expertise that has increased the costs of the litigation.

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

- Approve the budget proposal.

10. Bureau of Firearms

Background. The Bureau of Firearms provides oversight, enforcement and regulation of firearms in California by conducting firearms eligibility reviews, administering (1) the handgun safety certificate program, (2) a centralized list of firearms dealers, and (3) the gun show producer and assault weapon registration programs, conducting firearms dealer and manufacturer inspections and investigating violations. The Bureau also conducts investigations on armed and prohibited persons, in accordance with state and federal law, and administers the armed and prohibited persons database and the state handgun and firearms safety device programs.

The Bureau also maintains the Automated Firearms System (AFS). The AFS was developed by DOJ in the 1970s to house records containing handgun information, as required by Penal Code section 11106. There are two types of handgun records within the database: law enforcement records, which contain a description of a handgun and its status (e.g., lost, stolen, etc.) and historical records that contain information on handguns and the individuals who are recorded as having possession of them. The AFS is linked directly to a corollary gun file in the FBI National Crime Information Center (NCIC). Over the years the AFS has become neglected as DOJ became more reliant on the Bureau of Alcohol, Tobacco, and Firearms, and Explosives (ATF) gun tracing capabilities.

In 2003, Congress enacted a rider to the ATF's annual funding bill that limited the ATF's ability to share gun tracing data with state and local law enforcement entities. Due to this amendment, the ATF can only release firearms trace data to a law enforcement agency "solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure." Strictly construed, the amendment eliminates law enforcement's ability to obtain cross-jurisdictional information, even when law enforcement investigations overlap because of common purchase patterns. In plain terms, this means that a law enforcement agency in one county cannot investigate gun trafficking patterns to determine whether guns are coming from a dealer in a nearby jurisdiction.

California cannot currently utilize the information stored in the AFS because its functionality is limited. The system acts as a repository of information, not as a searchable database. As a result, the DOJ can inquire into individual firearms, but cannot search for information involving particular firearms sales, firearms dealers, or compile regional information dealing with firearms trafficking patterns.

The 2007-08 Budget Act contained $541,000 from the Dealers' Record of Sale (DROS) special fund to modernize the AFS database and required that DOJ have an approved Feasibility Study Report from the Department of Finance before expending the funds allocated for the upgrade to the AFS.

Governor's Budget. The Governor's budget requests $1.3 million one-time from the DROS Account to augment the support for a multi-year effort to redesign the AFS. The DOJ indicates that this project is included in an approved Special Project Report that is part of the California Justice Information Systems (CJIS) redesign project that is currently ongoing.

The Governor's budget also proposes $266,000 ($235,000 ongoing) from the Dealers' Record of Sale (DROS) Account to support three new positions to address workload increases related to the following three activities:

- Firearms eligibility reviews for peace officers, security guards, carry concealed weapon applicants, and dangerous weapon licensees;
- Firearms prohibition reporting; and
- Database updates/maintenance and timely dissemination of firearms information used by law enforcement agencies for criminal investigations and prosecutions.

Staff Comments. Staff finds that local law enforcement's ability to trace crime guns is seriously limited because the functionality of the AFS is limited. Staff finds that tracing crime guns could help solve crimes and improve public safety.

Furthermore, staff finds that the DROS Fund currently has a structural deficit of approximately $1.3 million and cannot sustain the current level of expenditures on an ongoing basis. Staff notes that the majority of the expenditures proposed in the budget are one-time. The DROS fund is projected to end the year with a reserve of $5 million, which is adequate to cover the one-time costs to upgrade this system.

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

- Approve the budget proposal to upgrade the AFS database.
- Reject the budget proposal to provide support staff for the Bureau of Firearms.

11. National Criminal History Improvement Program

Background. The DOJ is responsible for the compilation and dissemination of criminal history information submitted by various local agencies. The DOJ has received federal grants under the National Criminal History Improvement Program since the inception of the program in 1995. These monies have helped DOJ to improve the completeness, accuracy, and accessibility of the state's criminal history records.

Governor's Budget. The Governor's budget proposes $550,000 in federal funds to support additional efforts to improve the completeness, accuracy, and accessibility of the state's criminal history records consistent with the National Criminal History Improvement Program. These funds will be used to support the following activities:

- Adding thumbprints to dispositions in two additional counties that are already submitting disposition data to DOJ electronically.
- Enabling two additional courts to report dispositions to DOJ electronically.
- Migrating existing data from the federal Global Justice Extensible Markup Language Data Model infrastructure to the newly adopted National Information Exchange Model.

Staff Comments. Staff finds that the project to migrate data from the Global Justice Extensible Markup Language to the National Information Exchange Model requires an approved Feasibility Study Report. Staff has been informed that a Feasibility Study Report has been approved for this project.

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

- Approve this budget proposal.

12. Sexual Habitual Offender Program Fund

Background. The Sexual Habitual Offender Program (SHOP) Fund is supported by fees received from various agencies requesting criminal history information regarding an application for employment or licensing and court-ordered fines levied on persons convicted of certain sexual offender offenses.

This fund primarily supports components of the Criminal Justice Information System (CJIS). The department indicates that these monies are used to support an assessment of CDCR records to determine if a paroling inmate is a Sexual Habitual Offender. If they are a Sexual Habitual Offender the DOJ profiles the offender using CDCR data and provides it to local law enforcement.

The fund also supports DNA databank functions related to quality assurance, verifications, and documentation of DNA hits in the DOJ's Cal-DNA database. The department indicates that these functions are distinct from the Proposition 69 functions, which involve receiving and logging new DNA samples. The department indicates that 70 percent of the DNA databank hits have been for sex crimes.

Governor's Budget. The Governor's budget proposes a reduction of $642,000 in spending authority from the SHOP Fund. This reduction is made possible by placing some important information regarding training and the provision of goods and services that is needed by client agencies on various DOJ web sites and eliminating staff time providing the information.

Staff Comments. Staff finds that this reduction will enable the SHOP fund to remain solvent in future years without having to reduce CJIS program efforts.

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

- Approve the budget proposal to reduce expenditures from the SHOP Fund.

13. Fingerprint Fees Account

Background. The DOJ is currently implementing the DNA Live Scan Automation Project that allows local agencies to electronically submit offender information and thumbprints to DOJ databases. The implementation of the DNA Live Scan system is eliminating the need for hard fingerprint cards and has improved the efficiency of getting and storing fingerprint information.

Governor's Budget. The Governor's budget proposes a $4 million reduction in expenditure authority from the Fingerprint Fees Account as a result of reduced user fees set by the FBI for fingerprint-based criminal history information checks and improved efficiency by transitioning to an electronic system.

Staff Comments. Staff finds that the transition from hard fingerprint cards to electronic Live Scan has increased the efficiency of getting and storing fingerprint information. Therefore, the FBI recently proposed to lower the fees for fingerprint-based criminal history information checks.

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

- Approve the budget proposal to reduce expenditure authority from the Fingerprint Fees Account.

14. False Claims Act Fund

Background. One of the duties of the Attorney General is to diligently investigate entities or persons that file false claims against the state. A claim includes any request or demand for money, property, or services made to any employee, officer, or agent of the state.

Proceeds from litigation are deposited in the False Claims Act Fund to support DOJ's investigation activities.

Governor's Budget. The Governor's budget proposes a $3 million reduction in expenditure authority from the False Claims Act Fund. This action will reduce external consulting contracts and is needed to keep the fund solvent.

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

- Approve the budget proposal to reduce expenditure authority from the False Claims Act Fund.

15. Reimbursement Adjustments

Background. The DOJ gets grant funds and contract funds from various other state agencies through reimbursement. These grants and contracts support a wide variety of activities.

Governor's Budget. The Governor's budget proposes technical adjustments to the DOJ's projected reimbursement authority in the budget year. The DOJ requests a permanent reduction in reimbursement authority of $4.2 million to account for fewer grant and contract funds in the budget year related to the following items:

- $2 million associated with the federal Criminal Justice Information System (CJIS) Byrne Grant program that provides funding to upgrade and establish better data sharing and management of criminal history data.
- $1.7 million associated with the CJIS Statewide Integrated Narcotic System Enhancements program that coordinates narcotics related law enforcement operations.
- $500,000 related to various expiring CJIS Memorandums of Understanding.
- $20,000 associated with a technical transfer of how services are reimbursed in the Child Support Enforcement Unit.

The Governor's budget also proposes an augmentation to its reimbursements of $430,000 to reflect a contract with the California Department of Corrections and Rehabilitation to screen out-of-state convictions of California inmates and parolees to determine if they should be included in the Jessica's Law database for sex offenders.

These two items result in a net reduction in reimbursements of $3.8 million.

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

- Approve the adjustments to DOJ's reimbursements.

16. Anti-Gang Violence Parenting Curriculum

Background. Legislation enacted in 2007 (Chapter 457, Statutes of 2007 [AB 1291, Mendoza]) requires the DOJ to develop curriculum for anti-gang violence parenting classes. This legislation would allow the court to order the parent of a minor found guilty of commission of a gang-related offense to attend anti-gang violence parenting classes.

Governor's Budget. The Governor's budget proposes $102,000 General Fund to support the development of curriculum directed by recent legislation.

Staff Comments. Staff finds that the DOJ currently has $4.7 million to support the Crime Violence Prevention Center. Staff finds that DOJ should be able to absorb the one-time costs of developing this curriculum within existing resources.

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

- Reject funding to support this effort and request that DOJ fund this one-time effort from within existing resources.

17. Energy Litigation

Background. The Attorney General created an Energy Task Force in January 2001 to investigate and litigate issues arising from the 2000-2001 electricity and natural gas crisis in California. The department continues to be engaged in numerous lawsuits and settlements related to the activities during the electricity and natural gas crisis. So far, the Attorney General and other state agencies have recovered over $5 billion in losses and damages related to the crisis.

Governor's Budget. The Governor's budget includes base funding of $6 million from the Ratepayer Relief Fund to support 33 positions (15 attorneys) and $1.5 million in expert contracts to continue with numerous pieces of litigation related to the California energy crisis.

Williams Energy Settlement. Early on in the aftermath of the California energy crisis the DOJ settled a lawsuit with the Williams Energy Company. The terms of this settlement included the allocation of some cash funds (about $69 million) to a new Alternative Energy Retrofit Account to be used to retrofit school and other public buildings with renewable energy and energy efficiency projects. After this initial settlement the Legislature enacted legislation that would direct future settlement monies to the Ratepayer Relief Account that is used to finance the energy litigation and investigations, reduce rates to ratepayers, and pay off the energy bonds issued during the energy crisis.

The DOJ has indicated to staff that $75 million is currently being held in the department's Litigation Deposit Fund as a result of the Williams Energy Settlement. This includes the settlement payments plus interest on the deposit.

Staff finds there are no statutory restrictions on how the state uses this money and thereby could be transferred to the General Fund. Nevertheless, staff notes that customers of the state's three large investor-owned utilities are the ones that paid the entire bill for the electricity crisis. Therefore, it would be appropriate that settlements received by the state benefit the ratepayers of the investor-owned utilities.

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

- Hold this issue open.

18. Hazardous Waste Litigation

Background. Over the past decade, the DOJ has handled some of the Department of Toxic Substances Control's (DTSC) hazardous waste enforcement work under the Hazardous Waste Control Act and its hazardous waste site cleanup work under the Hazardous Substances Account

Act and CERCLA. In each year, the DOJ has recovered and returned to DTSC far in excess of the funds that support DOJ's enforcement work.

The DOJ indicates that it has also used its funds to work directly with District Attorneys, local health departments, and other agencies in handling toxics cases, including criminal enforcement. The funding has also supported training efforts, investigations, and multi-jurisdictional cases worth millions of dollars.

Historically, the DOJ was allocated $4.3 million from the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA) to support the activities listed above. The Governor vetoed $2.1 million from the base budget appropriation provided in the 2007-08 Budget Act. The Governor's veto indicated that he wanted to switch support for DOJ's legal efforts from a direct appropriation to a client-agency relationship with DTSC. Under this scenario, DTSC would determine the level of services provided by DOJ in any given year. The DOJ has indicated that at the current-year funding level of $2.2 million it would have to reduce its efforts considerably.

Governor's Budget. The Governor's budget proposes to delete all direct appropriations from the HWCA and the TSCA in the budget year. There is a separate budget proposal for DTSC to contract with DOJ for hazardous waste enforcement work at the same level ($2.2 million) budgeted in the current year.

Staff Comments. Staff notes that the Governor's veto in 2007 was unexpected by DOJ and lack of communication resulted in DOJ not reducing its expenditures in the current year to accommodate for the reduced level of funding. The DOJ reports that it is currently working on an interagency agreement with DTSC to cover costs for the next several months. The DOJ does not believe the interagency agreement will fully address the shortfall in the current year and they have indicated that they may request a subsequent augmentation.

Staff finds that DOJ should have taken more efforts to reduce its expenditures in the current year to live within the appropriation provided.

Staff finds that DTSC is the lead department for the administration responsible for hazardous waste enforcement and hazardous waste site clean up. As such, staff finds that the DTSC should have some authority over how its funds are expended to help meet its goals. Ultimately, the work DOJ performs is, and will continue to be, one of the ways DTSC meets its goals.

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

- Hold this issue open.

8180 Payments to Counties for Cost of Homicide Trials

Background. This local subvention item was added to the budget so that the cost of homicide trials not unduly impact local government finances. Current law allows counties to apply to the State Controller for reimbursement of homicide trial and hearing costs that exceed the amount of money derived by the county from a tax of 0.0125 of 1 percent of assessed property value in the county.

Governors Budget. The Governor's Budget proposes $2.25 million from the General Fund to support this item in the budget year. This is $250,000 or 10 percent less than what was included in the budget for 2007-08.

Staff Comments. Staff finds that actual expenditures from this item have been considerably less than what has been budgeted. The historical expenditures from this budget item are listed in the figure below:

Figure 1: Reimbursement to Counties for Homicide Trials, (Dollars in Thousands)

Budget Year	Amount Budgeted	Actual Expenditures	Amount Reverted to the General Fund
2001-02	$7,500	$7,500	$0
2002-03	7,500	5,617	1,883
2003-04	5,000	1,484	3,516
2004-05	4,746	3,062	1,684
2005-06	4,305	1,797	2,508
2006-07	3,500	616	2,884

To date only $4,000 of the $2.5 million allocated in the 2007-08 Budget Act has been expended.

Staff finds that statute governing these reimbursements was amended in 2004 to exclude costs paid by the trial courts. This change was made when the trial courts were consolidated and the primary financial support for the trial courts was transferred from the counties to the state. Since that time reimbursements to counties have declined.

Now that we have a state system of trial courts it is more likely that the courts would work to solve problems related to a resource-intensive trial. For example, the courts are currently allocating additional judicial resources to the trial court in Riverside to address a backlog of criminal cases. It is likely the state system of trial courts will do something similar to address a high-profile resource-intensive trial.

Furthermore, staff notes that demand for these funds has been significantly reduced over the past few years.

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

- Eliminate funding for this item.

Control Section 5.25

Background. Control Section 5.25 governs payment of attorneys' fees arising from actions in state courts against the state, its officers, and its employees.

Governors Budget. The Governor's budget proposes no changes to this Control Section.

Staff Recommendation. Staff recommends that the Subcommittee approve as budgeted this Control Section.

Control Section 24.10

Background. Control Section 24.10 directs the allocation of penalties deposited in the Driver Training Penalty Assessment Fund. The Control Section allocates the first $1.6 million to the Department of Education. After that, the remaining funds are allocated in the following order:

1. $4.1 million to the Victim-Witness Assistance Fund;
2. $9.8 million to the Corrections Training Fund;
3. $14 million to the Peace Officers' Training Fund; and
4. The remainder is allocated to the General Fund.

Governors Budget. The Governor's budget proposes no changes to this Control Section.

Staff Comments. Changes to this control section are discussed in the budget for the Commission on Peace Officers' Standards and Training.

Staff Recommendation. Staff recommends that the Subcommittee amend this Control Section to conform to the action taken in the budget for the Commission on Peace Officers' Standards and Training.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

Thursday, April 10, 2008

OUTCOMES (Revised)

State Administration—General Government—Judiciary—Transportation

8550 California Horse Racing Board

1. Steward and Veterinarian Contract Increases

Action.

- Rejected the budget proposal.

Vote. 2-0 (Ackerman absent)

1870 California Victim Compensation and Government Claims Board

1. Restitution Fund

Action.

- Held open trailer bill language and budget changes to transfer the administration of the Witness Protection Program from DOJ to the VCGCB and require that the board structure the program to maximize federal matching funds.
- Reduced Restitution Fund support by $3 million to its 06-07 funding level and increase federal fund $1.8 million support by a like amount for the Witness Protection Program. Approve trailer bill language to increase the local matching requirement from 25 percent to 75 percent to help address structural deficit in the Restitution Fund.

Vote. 3-0

Also directed staff, et al to do the following:

- Requested that staff, with input from the LAO, DOF, and the board, consider options for transferring a portion of the reserves in the Restitution Fund to the General Fund on a one-time basis.
- Requested that staff, LAO, DOF, and the board develop an audit request to explore options for enhancing revenue collections to the Restitution Fund.
- Requested staff, LAO, DOF and the board to develop ways to optimize state-local relationships related to victim services through the use of compacts.

2. Administrative Costs

Action.

- Approved supplemental report language regarding a new budget display for the board that includes administrative costs.

Vote. 3-0

8120 Commission of Peace Officer Standards and Training

1. Anti-Terrorism Training—Informational Item

Action. No action required on this informational item.

2. Peace Officers' Training Fund

Action.

- Amended Control Section 24.10 to reduce the allocation of Driver Training Penalty Assessment Fund revenues to the Peace Officers' Training Fund by $6 million. This will approximate a 10 percent reduction for the Commission and will increase General Fund revenues accordingly. **This action results in increased revenues to the General Fund of $6 million.**

Vote. 3-0

0552 Office of the Inspector General

1. Bureau of Audits and Investigations and General Administration

Action.

- Approved $3 million to fund 10 deputy inspector general positions and 1 supervisor, which is a little more than half of what was proposed as an augmentation for the Bureau of Audits and Investigations. This funding level assumes a phased hiring schedule and will result in full-year costs being $3.4 million in 2009-10. This will enable to the Office to complete the combo audits required by current law. Also approved the budget balancing reduction of $1.5 million to this item. This will result in a net augmentation of $1.5 million to the OIG's Bureau of Audits and Investigations budget. **This budget action results in $800,000 in savings relative to the Governor's budget.**
- Approved $250,000 augmentation to support two support positions (administrative and information technology positions) and rejected the budget balancing reduction ($202,000). This will result in a net augmentation of $452,000 to the OIG's administrative budget. **This budget action results in $36,000 in savings relative to the Governor's budget.**
- Approved trailer bill language to implement the budget balancing reductions for the Bureau of Audits and Investigations, except for changing the audit cycle from every four years to every five years.

Vote. 3-0

2. New Court-Ordered Functions

Action. Approved both the budget proposals related to the *Madrid* and *Plata* cases.

Vote. 2-0 (Ackerman absent)

0820 Department of Justice

1. Eliminate Vacant Positions

Action.

- Approved the LAO's recommendation to eliminate vacant positions and reduce DOJ's budget by $13.5 million General Fund. **This action provides $13.5 million in General Fund towards the Governor's unallocated reduction.**

Vote. 3-0

- Requested staff, the LAO, DOF, and DOJ to work on a process for identifying positions for elimination and budget bill language to guide this process.

2. Charging State and Local Agencies Lab Fees

Action.

- Approved the budget request to augment General Fund to support maintenance and repairs for the department's forensic laboratories and make $225,000 ongoing to support routine maintenance related to fire, life, and safety.

Vote. 3-0

- Requested that staff, LAO, DOF, and DOJ develop a plan for reducing the General Fund support for the state forensic labs, including raising fees for selected lab services.

3. Correctional Law: Class Action and Civil Lawsuits

Action.

- Held this issue open.

4. Correctional Law: Habeas Corpus Lawsuits

Action.

- Approved the LAO's recommendation that would reduce the Governor's proposal by $1.8 million General Fund, thereby providing an augmentation of $2.5 million for this purpose. **This action provides $1.8 million in General Fund towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

5. *Underwriters* Litigation – Stringfellow Toxic Waste Site

Action. Approved this budget request as proposed.

Vote. 2-0 (Ackerman absent)

6. Gang Suppression Enforcement Teams

Action.

- Rejected the budget proposal to extend the GSETs. **This action provides $5.3 million in General Fund towards the Governor's unallocated reduction.**
- Approved budget bill language to allow the department to pursue this effort using existing budget resources.

Vote. 2-0 (Ackerman absent)

7. Restructure of Administrative Programs

Action.

- Approved the budget proposal to consolidate administrative functions and transfer three programs that provide direct services to the Criminal Law Division.

Vote. 2-0 (Ackerman absent)

8. Cardrooms – Compliance and Enforcement

Action.

- Rejected the proposed expansion until revenue impacts of recent legislation on the Gambling Control Fund are determined.

Vote. 2-0 (Ackerman absent)

9. Greenhouse Gas Emissions Reduction Litigation

Action.

- Approved the budget proposal.

Vote. 2-0 (Ackerman absent)

10. Bureau of Firearms

Action.

- Approved the budget proposal to upgrade the AFS database.
- Rejected the budget proposal to provide support staff for the Bureau of Firearms.

Vote. 2-0 (Ackerman absent)

11. National Criminal History Improvement Program

Action.

- Approved this budget proposal.

Vote. 2-0 (Ackerman absent)

12. Sexual Habitual Offender Program Fund

Action.

- Approved the budget proposal to reduce expenditures from the SHOP Fund.

Vote. 2-0 (Ackerman absent)

13. Fingerprint Fees Account

Action.

- Approved the budget proposal to reduce expenditure authority from the Fingerprint Fees Account.

Vote. 2-0 (Ackerman absent)

14. False Claims Act Fund

Action.

- Approved the budget proposal to reduce expenditure authority from the False Claims Act Fund.

Vote. 2-0 (Ackerman absent)

15. Reimbursement Adjustments

Action.

- Approved the adjustments to DOJ's reimbursements.

Vote. 2-0 (Ackerman absent)

16. Anti-Gang Violence Parenting Curriculum

Action.

- Rejected funding to support this effort and request that DOJ fund this one-time effort from within existing resources. **This action provides $102,000 in General Fund towards the Governor's unallocated reduction.**

Vote. 2-0 (Ackerman absent)

17. Energy Litigation

Action.

- Held this issue open.

18. Hazardous Waste Litigation

Action

- Held this issue open.

8180 Payments to Counties for Cost of Homicide Trials

Action

- Eliminate funding for this item and add $1,000 to this item and allow warranted claims to be paid through the supplemental appropriation process. Also approve the budget balancing reduction to this item. **This action provides $2.25 million in savings relative to the Governor's budget.**

Vote. 2-0 (Ackerman absent)

Control Section 5.25

Action. Approved as budgeted this Control Section.

Vote. 2-0 (Ackerman absent)

Control Section 24.10

Action. Amended this Control Section to conform to the action taken in the budget for the Commission on Peace Officers' Standards and Training.

Vote. 2-0 (Ackerman absent)

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

Monday, April 14, 2008
10:00 a.m. - Room 3191

Consultant: Keely Martin Bosler

State Administration—General Government—Judiciary—Transportation

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

Court Appointed Receiver for Medical Care

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

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

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

Draft Strategic Plan

Summary of Plan. As mentioned above, the new Receiver was appointed in January of this year. He released a draft strategic plan for public comment on March 11, 2008. According to the plan, the overall mission of the Receivership is to reduce unnecessary morbidity and mortality and protect public health by providing patient-inmates timely access to safe, effective, and efficient medical care, and coordinate the delivery of medical care with mental health, dental, and disability programs.

In addition to receiving public comment, the draft strategic plan will be reviewed by the Plata Advisory Working Group (PWG) and other interested stakeholders. The PWG assisted the court in reviewing the previous Receiver's November 15, 2007, Plan of Action. In its January 23, 2008 order appointing a new Receiver, the court adopted recommendations by the PWG finding: (1) that further work was necessary on the Plan of Action; and (2) that the Court should appoint an Advisory Board to assist in the Court's oversight of the Plata case. It is expected that the permanent Advisory Board will be appointed upon submission of the final version of the Receiver's strategic plan to the Court.

Five strategic goals have been identified in the draft strategic plan. Each of the goals has associated objectives and action items that describe the steps needed to bring CDCR's health care program to constitutionally acceptable and sustainable levels. The five strategic goals are as follows:

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

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

The focus of this agenda is on the fifth strategic goal – to build health care and health care-related facilities.

Health Care and Health Care-Related Facilities—Capital Outlay

Background. The federal courts have found that the current state of prison infrastructure does not support a constitutional level of health care. This has been found in the *Plata* case, as well as the *Coleman* case relative to mental health care, the *Perez* case relative to dental care, and the *Armstrong* case relative to CDCR's disabled inmates. The judges in three of these cases (*Plata*, *Coleman*, and *Armstrong*) are coordinating to ensure that the physical improvements needed to support a constitutional level of care are made at CDCR's prison facilities. The three courts have agreed that the Receivership shall coordinate the construction of these facilities.

Draft Strategic Plan – Health Care Facilities Objectives. As mentioned above, one of the five strategic goals contained in the new Receiver's recent draft strategic plan is to build health care and health-care related facilities. Specifically, the Receiver's goal has three main objectives to bring health care up to constitutional levels within CDCR. These objectives are summarized below:

- **Prison Specific Upgrades.** Upgrade administrative and clinical facilities at each of CDCR's 33 prison locations. The Receiver plans to complete this objective by December 2011 and proposes a phased approach to implementation. The Receiver plans to have assessments and preliminary plans completed for one-third of the facilities by the end of calendar year 2008.

- **Consolidated Care Centers.** Construct administrative, clinical, and housing facilities to serve up to 10,000 inmates with medical and/or mental health needs. These facilities have commonly been referred to as Consolidated Care Centers. The Receiver plans to complete this objective by January 2013. The Receiver plans to construct these centers at seven sites that will each support up to 1,500 inmates. The Receiver is still evaluating potential sites. The Receiver estimates that half of the beds will be for inmates with medical needs and the remaining will be for inmates with mental health needs. The Receiver is planning to construct stand-alone facilities that are designed to be self sufficient for support services such as food, laundry, and central plant.

- **San Quentin Project.** The new Receiver plans to finish construction at San Quentin. The first Receiver started various projects to improve the medical treatment space at San Quentin, including the construction of a Central Health Services Facility to improve health care and reception center processing at San Quentin. The Receiver plans to complete the various projects at San Quentin by December 2008 and the Central Health Services Facility by Spring 2010.

Draft Strategic Plan – Consolidated Care Centers. Approximately half of the beds will be dedicated to inmates with medical needs and the other half will be for inmates with mental health needs. The size of this bed plan was determined by needs studies conducted by the Receiver and by the Special Master in the *Coleman* lawsuit. Half of the overall square footage of the Consolidated Care Centers will be for clinical and administrative space and the other half will be for housing the inmates. As described above, the majority (75 percent) of the housing will be open dorm. However, some (25 percent) will be assisted living and licensed nursing home care.

Specifically, the Receiver is proposing to build the following mix of medical beds:

- **Specialized General Population.** 73 percent of the beds or 3,650 beds will be open dorm for patients with functional impairments or chronic conditions requiring ready access to health care services (chronic lung disease, wheel chair bound patients with spinal cord injuries, etc.).
- **Assisted Living Housing.** 18 percent or 900 beds will be assisted-living quality housing for patients that require nursing needs (wheel chair bound patients with wounds that need regular dressing, stroke patients that require help with daily tasks, etc.).
- **Nursing Home Housing.** 9 percent or 450 beds will be nursing-home quality housing (patients undergoing chemotherapy, patients that are bed bound, etc.).

The mental health bed plan has been developed over several years by CDCR in conjunction with private consultants and the Special Master in the *Coleman* lawsuit. Several projects for the *Coleman* lawsuit are already under construction. However, the draft strategic plan outlines that the Receiver will oversee the construction of the following additional mental health beds:

- **Enhanced Outpatient Program – Regular.** 68 percent or 3,400 open dorm beds for enhanced outpatient program inmate-patients.
- **Enhanced Outpatient Program – High Custody.** 18 percent or 900 beds for high-custody enhanced outpatient program inmate-patients.
- **Other Crisis-Type Beds.** 14 percent or 700 other beds that will be a mix of mental health crisis beds, acute beds, an intermediate care facility, and a high custody intermediate care facility.

Existing Funding Allocated for Health Care Facilities. Chapter 7, Statutes of 2007 (AB 900, Solorio) included $857 million in lease-revenue bond authority to construct up to 6,000 medical and mental health beds in Phase I of the prison bed construction authorized by the legislation. The legislation also included $286 million to support the construction of an additional 2,000 beds in Phase II of the prison bed construction after certain benchmarks were met by CDCR and local communities. In total, AB 900 allocated $1.1 billion to support the construction of health care related facilities.

In addition, Chapter 245, Statutes of 2007 (SB 99, Budget) was enacted to allocate $146.2 million of the lease-revenue bond authority provided in AB 900 for the construction of the Central Health Services Facility at San Quentin. This legislation also authorized this project to be constructed outside some of the state's normal contracting and bidding practices.

To date, no bonds have been issued for the construction of health care facilities. However, the Receiver has allocated some General Fund from the Receivership budget to remodel existing facilities at San Quentin and start demolition at San Quentin in order to prepare for construction of the new Central Health Services Facility.

Governor's Budget and Finance Letter. A Finance Letter (dated April 12, 2008) proposes legislation to authorize $6.9 billion in lease-revenue bonds and $100 million in General Fund to support the construction of the health care bed plan contained in the Receiver's draft strategic plan. The proposal consists of funding for the following projects:

- **Prison Specific Upgrades.** $900 million in lease-revenue bond authority and $100 million from the General Fund to design and construct health care facility improvements at all existing prison facilities statewide. This effort does not include dental facilities and some mental health facilities that are being pursued separately from the Consolidated Care Centers. The Finance Letter assumes $450 million in lease-revenue bond authority and $50 million in General Fund would be expended in the budget year.
- **Consolidated Care Centers.** $6 billion in lease-revenue bond authority to design and construct specialized health care beds and health-related facilities for up to 10,000 inmates with medical and mental health care needs, including all supporting infrastructure and ancillary facilities. The Finance Letter assumes that $2.5 billion would be expended in the budget year.

The Governor's budget proposal assumes that $49 million in lease-revenue bond authority will be expended to support the preliminary plans, working drawings, and construction of the Central Health Services Facility at San Quentin in the current year. The budget assumes the remainder ($97.5 million in lease-revenue bonds) allocated to this project will be expended in the budget year.

The Governor's budget originally discussed shifting $2.2 billion in lease-revenue bond authority—originally allocated in AB 900 to build new prison beds and reentry centers—to support the construction of new medical facilities planned by the Receiver. However, the Department of Finance has indicated to staff that it is no longer pursuing this proposal.

LAO Recommendation. The LAO finds that the cost, design, and timing of the projects proposed by the Receiver need to be reviewed before they can provide an analysis and recommendation to the Legislature. Given the recent submission of the Receiver's facility plan the LAO has not had an opportunity to analyze the plan. The LAO highlights in its Analysis that there are several proposals pending before the Legislature and the courts that would significantly reduce the size of the inmate population that would impact the number of new beds needed.

Staff Comments. Staff finds that there are many key issues for the Legislature to consider when evaluating the Receiver's health care bed plan. The following is a list of issues staff recommends that the Legislature evaluate:

- **Legislative Oversight.** The Legislature has an important role in appropriating funding to support state-funded projects, including the projects proposed by the Receiver. The Legislature may wish to develop a process to ensure some legislative oversight of the specific projects as the Receiver develops these projects and submits them to the Public Works Board for approval.
- **Impact on Infill and Reentry.** Staff finds that a rigorous analysis is needed of how the Receiver's bed plan impacts and changes the plan to build prison beds authorized in AB 900.
- **Population Impacts on Plan.** It will also be important for the Legislature to evaluate the bed plan in the context of several population reduction proposals currently pending before the Legislature and the courts.
- **Operational Costs.** It will be important that staffing plans be developed for the projects proposed by the Receiver so that the state can plan for future operational costs related to these facilities.
- **Operational Issues.** Half of the beds in the Receiver's plan are to support inmates with acute mental health issues. The Legislature may wish to evaluate who should manage the operations of these new mental health facilities. Should CDCR operate the treatment programs in these new facilities or should the treatment program be managed by the Department of Mental Health. (Currently, the Department of Mental Health manages the treatment program in a few of CDCR's facilities.)

Staff also notes that there continues to be significant court-related capital outlay projects that will need to be implemented by the department. The department has already started construction of several capital outlay projects court-ordered under the *Coleman* lawsuit related to mental health care. The department will also be responsible for constructing additional space at all 33 prisons to expand dental clinic space as directed by the *Perez* lawsuit. The Department of Finance has indicated that these projects will be funded out of the AB 900 allocation for medical and mental health beds.

AB 900 Implementation

Background. On April 26, 2007, the Legislature approved legislation (Chapter 7, Statutes of 2007 [AB 900, Solorio]) to authorize additional prison and jail bed capacity. The legislation authorized $7.4 billion in lease-revenue bonds and appropriated $350 million General Fund to implement this legislation. The legislation was structured to phase in the funding for the construction of new prison beds and jail beds as the department achieved various benchmarks. The legislation also contained significant new legislative directives related to rehabilitative programming in CDCR.

The three main components of AB 900 are summarized below:

1. **Prison Bed Construction.**
   - **Phase I – Prison Bed Construction.** The legislation authorized $3.6 billion in lease-revenue bonds to construct: (1) 12,000 infill beds at existing prisons ($1.8 billion); (2) 6,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services ($975 million); and (3) 6,000 medical and mental health beds ($857 million). The legislation also appropriated $300 million General Fund for infrastructure improvements at existing prisons.

   - **Phase II – Prison Bed Construction.** The legislation also authorized an additional $2.5 billion in lease-revenue bonds to construct: (1) 4,000 infill beds at existing prisons ($600 million); (2) 10,000 re-entry beds ($1.6 billion); and (3) 2,000 medical and mental health beds ($286 million). Funding would be made available for Phase II only if certain conditions and benchmarks are met and verified by a three-member panel comprising of the State Auditor, the Inspector General, and an appointee of the Judicial Council.

2. **Recidivism Reduction and Rehabilitation.** The legislation also required CDCR to implement various reforms to reduce recidivism and increase rehabilitation efforts. The legislation also appropriated $50 million to enhance rehabilitation programming in 2007-08. These reforms include the following:

   - **New Beds Must Include Program Space.** Required all new state prison beds to include substance abuse treatment, work programs, academic and vocational education, and mental health care. Also, authorizes CDCR to use portable buildings for inmate rehabilitation treatment, and housing to ensure sufficient program space is available.
   - **Expanded Substance Abuse Beds.** Required implementation of 4,000 new dedicated substance abuse treatment beds with post-release aftercare treatment for parolees.
   - **Mandatory Needs Assessment.** Required individualized program needs assessment for all inmates at reception centers.
   - **Prison-to-Employment Plan.** Required development of a prison-to-employment plan to ensure programs provide sufficient skill to assist in successful re-entry and employment.
   - **Rehabilitation Oversight Board.** Created the California Rehabilitation Oversight Board (C-ROB) to evaluate CDCR rehabilitation and treatment programs and recommend changes to the Governor and the Legislature.
   - **Mental Health Day Treatment.** Required development of mental health day treatment

for parolees.

- **Education Incentives.** Required implementation of a system of incentives designed to increase participation in education programs and encourage inmates to complete educational goals.
- **Rehabilitative Staff Pipeline Development.** Required development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.
- **Management Deficiencies.** Required CDCR to develop and implement a plan to address management deficiencies within the department.

3. Jail Bed Construction.

- **Phase I – Local Jail Construction.** The legislation authorized $750 million in lease-revenue bonds for the construction of 8,000 county jail beds. The financing will require a 25 percent county match. The funding will be allocated to counties that help the state site re-entry facilities, increase mental health and substance abuse services for parolees, and help the state site mental health day treatment for parolees.

- **Phase II – Local Jail Construction.** The legislation also authorized $470 million in lease-revenue bonds for the construction of an additional 5,000 county jail beds in Phase II. Funding will be made available for Phase II only if specified benchmarks are met.

The department has been working on implementing AB 900 since it was enacted last year. This agenda attempts to summarize the progress made by the department in implementing the various provisions contained in AB 900. This agenda will focus on two of the three main components of AB 900: (1) prison bed construction and (2) jail bed construction. There will be a subsequent discussion on CDCR's recidivism reduction and rehabilitation efforts.

AB 900 Benchmarks – Prison Bed Construction

Background. As mentioned above, there are numerous benchmarks that must be met and verified by a three-member panel comprised of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the prison bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department with regards to the benchmarks detailed below.

- **Infill Beds.** At least 4,000 of the infill beds authorized in Phase I must be under construction or sited, including adequate rehabilitation programming space to implement AB 900.
- **Re-Entry Beds.** At least 2,000 re-entry beds authorized in Phase I must be under construction or sited.
- **Substance Abuse Beds.** At least 2,000 of the new substance abuse beds must be established and prison drug treatment slots must have averaged 75 percent participation over the previous six months.
- **Risk/Needs Assessment.** An individualized inmate risk/needs assessment must be administered at reception centers and be used to assign inmates to housing and programs for at least six months.
- **Prison-to-Employment Plan.** The CDCR must have completed the Inmate Treatment and Prison-to-Employment Plan required by AB 900.
- **Parolee Mental Health Treatment.** At least 300 parolees must be served daily in mental health treatment centers.
- **California Rehabilitation Oversight Board.** The California Rehabilitation Oversight Board must be in operation for one year and be regularly reviewing CDCR's programs.
- **Management Deficiencies.** The CDCR must implement a management deficiency plan and have at least 75 percent of management positions filled for at least six months.
- **Educational Programs.** The CDCR must increase full-time participation in inmate education and vocational education programs by 10 percent over the April 2007 levels.
- **Vacancy Rate.** The CDCR must develop and implement a plan to obtain additional rehabilitation services and reduce its vacancy rate for positions dedicated to rehabilitation and treatment services in prisons and parole offices to no greater than the statewide average vacancy rate for all state positions.
- **Parole Procedures.** The CDCR must review its current parole procedures.

Staff Comments. Staff notes that CDCR recently released (April 10, 2008) a document entitled "Prison Reforms: Achieving Results" that provides an update on the progress the department has made in meeting each of the benchmarks listed above, including a projected completion date. In this document the department projects that it will have completed all of the benchmarks by December 2008. Staff finds that many of the projected completion dates seem overly optimistic. Furthermore, staff notes that many of the benchmarks are sufficiently vague and working definitions are needed to determine when the benchmarks are actually met. Staff is not aware of the working definitions developed by the department for this purpose. Furthermore, as stated above, the three-member panel has not been convened to establish the working definitions or make a determination of progress by the department.

Facilities Construction Strike Team

Background. During the 2007 budget deliberations, there was considerable discussion and concern about CDCR's capacity to support the construction program contained in AB 900 (Solorio). Furthermore, there was also considerable concern expressed by the LAO and this Subcommittee about the lack of detail and analysis submitted to support the infill bed plan.

Shortly after the Governor signed AB 900, at the beginning of May 2007, he named a facilities construction strike team to assist the department in developing a comprehensive and effective strategy for implementing the construction program contained in AB 900. The strike team was chaired by Deborah Hysen, Chief Deputy Secretary for Facility Planning Construction and Management, and was comprise of retired CDCR staff that had been involved in the state's last significant prison construction effort in the 1990s, capital outlay experts, and correctional experts.

Report Found Significant Shortfalls with CDCR Capacity and Plan. The strike team completed a report by the end of May 2007. In developing this report the strike team directed an independent assessment by the Department of General Services of the infill plan and the department's existing capital outlay staffing resources. The independent assessment concluded that CDCR did not have an adequate plan to build the infill beds and could not complete construction within 18 to 24 months as represented to the Legislature. Based on this assessment and other analysis the strike team concluded the following:

- CDCR lacked the organizational structure, capacity, and depth to construct the required facilities.
- The construction estimates and project schedules for the infill bed plans were cursory and were absent the detail normally required of a capital outlay project intended to be funded with lease revenue bonds.
- The infill expansion plan lacked any detail to suggest that necessary program space had been included to meet the objectives of AB 900 or whether space requirements for health-related infrastructure required by the federal courts had been included in the projects.
- CDCR had not engaged in any planning activity for the reentry facilities other than preliminary talks with local governments.
- CDCR was operating in "crisis mode" and must engage and lead its executives, employees, and all available resources in a more organized strategic and focused effort that effectively prioritizes and implements the objectives of AB 900 while still meeting its other workload requirements.

The strike team identified four major problem areas within CDCR that would hamper their ability to successfully implement the construction program contained in AB 900. These problems included organizational weakness, project planning deficiencies, inadequate programming effort, and management challenges. The strike team identified a number of immediate steps and an action plan that has become a blueprint for CDCR in implementing the construction program contained in AB 900. The work of the facilities strike team was concluded with this one and only strike team report issued on May 31, 2007.

Staff Comments. Staff finds that various conclusions made by the strike team are consistent with findings of this Subcommittee during 2007 hearings prior to the passage of AB 900.

Facilities Management Staffing

Background. As mentioned above, there was considerable concern during budget deliberations last year about the capacity of CDCR to effectively implement the construction program contained in AB 900. The 2007-08 Budget Act included $11.9 million ($2.4 million General Fund) for support of 111 new positions to support the construction directed by AB 900.

Update on Progress. The LAO reports that a number of key construction management staff have been hired and a major reorganization of the department's Office of Facilities Management has occurred. The hiring and reorganization occurred in the fall of 2007 and by January 2008 the department had filled 32 of the 88 positions allocated to the Office of Facilities Management in the 2007-08 Budget Act.

Staff notes that the vast majority of positions funded to support the AB 900 construction program were proposed to be funded out of proceeds from the lease-revenue bonds. Since the department has not submitted any lease-revenue bond funded projects to the Public Works Board for approval, the department has not been able to hire these positions.

Governor's Budget. The Governor's budget does not contain any budget proposals to support changes to the department's facilities management staffing to support AB 900.

Staff Comments. Staff finds that the department has made some progress in recruiting and developing the staff resources needed to implement the construction program contained in AB 900. However, the LAO notes that this progress has been slowed by the lack of access to funding for planning. The LAO finds that AB 900 included funding for studies, preliminary plans, working drawings, and construction costs funded from lease-revenue bond financing. However, the legislation did not contain sufficient funds to develop the capital outlay planning packages that needed to be developed prior to the approval of these projects by the Public Works Board. Usually, a department would have completed all of this pre-planning work before it sought an appropriation of funds by the Legislature. However, as highlighted in the next section, AB 900 is unique in that the monies were appropriated prior to the full development of the capital outlay projects that would be funded.

Facilities Master Plan

Background. Subsequent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) included significant new reporting requirements to ensure legislative oversight over the construction program contained in AB 900. Since AB 900 appropriated all of the lease-revenue bond authority, projects funded by this legislation will not be included in the annual budget process like other lease-revenue bond fund projects. Instead, Chapter 175 created procedures outside of the budget process that requires CDCR to submit capital outlay budget proposals to the Legislature 30 days before they are submitted to the Public Works Board for approval.

This legislation also contained significant changes to the department's master plan document. The master plan required by statute is now required to not only be a tracking document for all capital outlay projects, but also an analysis tool that provides some context for why each infrastructure project furthers the objectives and operational goals of the department. The master plan, in theory, should help the department and the Legislature to proactively develop its facilities and related programs based on its projected needs.

First Master Plan Submitted. The department submitted its first master plan since 1998 in March of this year. This plan describes the scope and costs of all infrastructure projects being implemented and currently planned by the department. The plan also proposes to provide some context regarding how various capital outlay projects will allow CDCR to achieve its operational mandates, goals, and objectives. However, the department admits that this aspect of the report could be strengthened considerably by actually establishing facility standards and operational goals and measuring the results of expenditures in terms of both costs and outcomes.

Staff Comments. Staff finds that the first draft of the master plan contains a limited analysis of the impacts of population projections, legislative impacts, and legal impacts on the department's infrastructure plan. The department admits that there are limitations with its current analysis, which only categorizes the population by security classification. The department indicates that it will base its future infrastructure planning efforts on more detailed population categories, including behavioral characteristics, criminogenic needs, and by their medical and mental health needs. Despite the shortcomings of this plan, staff finds that it reflects considerable more analysis than was evident in the original bed plan submitted to the Legislature.

Furthermore, the department indicates that the master plan does not reflect the impacts of the construction contemplated by the Receiver.

Infill-Beds

Background. Assembly Bill 900 included $2.4 billion in lease-revenue bond authority to construct up to 16,000 infill beds at existing prisons. The purpose of these beds is to replace "bad beds" that have been placed in gyms and dayrooms to accommodate overcrowding.

The original bed plan included the following mix of beds by security level:

Infill Prison Bed Plan by Security Level	Number of Beds
Level I and II	10,420
Level III	2,223
Level IV	1,505
Reception Center	2,090
Total	16,238

The majority (over 60 percent) of the beds proposed to be constructed in the original bed plan were in dorm facilities (Level I/Level II housing). The LAO and this Subcommittee were critical of this bed plan for not reflecting the actual needs of the state. Specifically, the LAO found that the plan relied too heavily on the construction of additional dorm beds and did not include enough celled housing.

Strike Team Found AB 900 Infill Bed Plan Deficient. As mentioned above, shortly after AB 900 passed, the Governor appointed a strike team to develop a comprehensive plan for effectively implementing the construction program contained in AB 900. The analysis by the strike team found that the existing infill plan was deficient in the following respects:

- Plan assumed commingled housing and caused security concerns.
- Program space was deficient in the plan.
- Cost and schedule was inefficient because the majority of the projects were proposed to be constructed within the existing perimeter of the prison.
- Plan did not address both short- and long-term bed needs.
- Plan had not considered site specific issues such as staff availability, community support, environmental concerns, infrastructure issues, land availability, and Valley Fever.

After this evaluation, the CDCR developed a more sophisticated decision matrix to help rank and evaluate different bed plan options. This matrix was also used to compare the relative costs associated with the various infill bed projects. The department then proceeded to develop a new infill bed plan that was based on this analysis.

Lack of Planning Funds Has Delayed Infill Bed Plan. Legislation (Chapter 175, Statutes of 2007 (SB 81 [Budget]) made changes to AB 900 to ensure that capital outlay budget packages were submitted to the Legislature for review before the projects were approved by the Public Works Board. Unfortunately, specific funding to support the development of these budget packages was not included in this legislation or in AB 900. While these costs would be eligible for reimbursement once the lease-revenue bonds were issued, the department did not have sufficient dedicated resources to support the pre-planning work. Therefore, the department, after notification of legislation staff redirected, temporarily, $6.5 million of the General Fund monies allocated for infrastructure in AB 900. The Governor has proposed trailer bill language to make it clear that the expenditures to prepare pre-planning capital outlay budget proposals should be reimbursable from AB 900 lease-revenue bond funding. The LAO reports that lack of planning funds has delayed the development of the department’s infill bed plan.

Current Status of Infill Bed Plan. To date, the department has not submitted any infill capital outlay proposals to the Legislature for review. The CDCR recently released (April 10, 2008) a document entitled “Prison Reforms: Achieving Results” that includes the latest summary of the first phase of infill beds proposed by the department. The first four projects (what is referred to as Phase I – Segment I) includes 6,050 beds at the following four institutions:

- Kern Valley State Prison – 1,000 Level II dorm beds.
- North Kern State Prison – 950 reception center celled beds.
- Wasco State Prison – 950 reception center celled beds and 950 Level IV celled beds.
- California Correctional Institution – 950 reception center celled beds, 950 Level IV

celled beds, and 300 administrative segregation unit celled beds.

The most recent iteration of the four projects is slightly changed from what was included in the master plan. The master plan document reported that these beds would all be completed by October 2011, with the dorm beds being completed as early as December 2009. Furthermore, the costs per bed estimated in the master plan were between \$152,000 and \$237,000 per bed.

Staff notes that the large disparity between per bed costs could be directly related to site specific issues that, lacking a detailed capital outlay budget package, are difficult to determine. In addition, the first four projects represent a wide variety of types of housing that have different requirements. For example, reception center beds generally do not require the same compliment of rehabilitation space as a regular prison bed. Also, construction of cells and administrative segregation units are generally considerably more expensive than building dorm housing.

The master plan does not contain specific information on what the department is calling Phase I – Segment II and Phase II of the infill bed plan. However, the department does indicate that given the underlying flaws in the original bed plan it is unlikely that the department will be able to construct all 16,000 infill beds authorized in AB 900. Nevertheless, the master plan indicates that the department is committed to building the appropriate beds with the necessary support space to achieve the objectives of AB 900.

LAO Findings. The LAO has worked closely with the department to review various iterations of the department's revised infill bed plan. To date, an official plan has not been submitted to the Legislature. Specifically, the LAO finds the following:

- The new plan contemplates constructing considerably more celled housing, thereby reducing the proposed dorm beds.
- The revised plan concentrates construction at only ten sites as opposed to the prior plan that spread construction over 25 different prisons.
- The revised plan focuses heavily on construction of additional reception center housing.
- The revised plan contains significantly more space allocated for health care and academic education. Dedicated space for all health care related functions would increase by seven-fold over the amount of space constructed at the last state prison constructed (Kern Valley State Prison) and the space for rehabilitation programs would triple.

The LAO finds that overall the department is moving in the right direction by constructing more celled housing and less dormitory housing. The LAO finds that this housing mix is not only more aligned with the department's projected needs but is also more flexible since celled housing can easily be used for low- or high-security inmates. The LAO notes the importance of flexibility especially in light of the population reduction proposals proposed by the Governor and what may be considered by the three-judge panel to reduce prison overcrowding.

The LAO has raised some concern with the department's decision to choose dorms and reception center beds as its first projects, citing that population reduction proposal could have significant impacts on the demand for these facilities. These facilities would be disproportionately impacted because most population reduction proposals contemplated would impact low-level inmates that are typically housed in dorms and often at a high risk to recidivate because of substance abuse issues.

The LAO concurs with the department's proposed increase in square footage for rehabilitation classrooms. However, the LAO has some outstanding questions related to the assumptions used in building additional health care space into its models. The LAO notes that the health care space proposed to be added in the infill projects is a nearly seven-fold increase over what was included when Kern Valley State Prison was constructed.

The LAO finds that the department's decision to build fewer, larger projects outside of inmate-occupied areas will likely result in major cost savings. Staff notes that construction within inmate-occupied areas can cost as much as 45 percent more than comparable projects outside inmate-occupied areas. The increased costs are a direct result of security checks that are required that reduce the length of the work day.

The LAO also finds that the estimated per bed costs appear to be significantly higher than the costs associated with building Kern Valley State Prison a few years ago. Kern Valley State Prison cost $82,000 per bed when it was completed in 2005. The LAO now estimates that the cost per bed will average around $222,000. The LAO does not believe inflation and increased labor costs can explain the near tripling of the costs in the last three years. The LAO notes that the so-called "soft" costs and contingencies appear to be major additional factors driving the department's cost estimates. Soft costs is the term often used to refer to non-construction costs of projects such as architectural and engineering fees, project management and construction management fees, and inspection fees.

LAO Recommendations. Based on the findings outlined above, the LAO has offered the following recommendations to the Legislature related to the construction program directed by AB 900. The LAO recommends the Legislature take the following actions:

- **Obtain Independent Cost Estimates.** The LAO recommends that the Legislature direct CDCR to obtain independent cost estimates for the construction costs from a private sector firm that has no involvement in these projects. The LAO understands that the Department of General Services routinely obtains two private sector estimates for its more costly projects. The LAO estimates that the costs of obtaining a second opinion on these construction costs would be minimal.
- **Establish In House Expertise.** The LAO also recommends that CDCR establish staff positions within CDCR that can provide effective and continuous monitoring and validation of all capital outlay cost estimates by private contractors. The Department of General Services has a similar construction estimating group that is able to verify the accuracy of the work of private sector firms. The LAO recommends establishing two positions at the department to accomplish this task.
- **Revise Infill Bed Plan.** The LAO recommends that after independent cost estimates are obtained, the department should revise its existing infill bed plan and develop an alternative plan that takes into consideration the Governor's proposal to reduce the prison population.
- **Fund Planning Packages.** The LAO recommends that the Legisalture approve the trailer bill language proposed by the Governor to clarify that pre-planning activities required to develop detailed capital outlay budget packages be reimbursable from AB 900

lease-revenue bond financing. As mentioned above, the lack of dedicated funding has delayed the development of the infill bed plan.

Staff Comments. Staff finds that it will be important for the Legislature to understand how the construction of the Receiver's beds will impact the size and overall approach the department will take in constructing infill beds. Also, the department openly admits that it has not completed an analysis of what type of beds it needs based on behavioral characteristics and criminogenic needs of the inmates. If the department is embarking on large-scale changes to rehabilitation efforts it seems reasonable that some level of evaluation would be completed to determine what objectives the construction program will need to fulfill.

Re-Entry Beds

Background. Assembly Bill 900 included $1.6 billion in lease-revenue bond authority to construct up to 16,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services. These facilities are to be sited closer to or in population centers where inmates will parole. The goal of these facilities is to provide targeted and more intensive services for the last 12 months of incarceration and enable a more supported transition from prison back into the community where he or she will parole. Under a re-entry model, the goal is to achieve some continuity in rehabilitation services provided in prison and when the offender paroles.

First Re-Entry Facility in Stockton. Legislation (Chapter 228, Statutes of 2007 [SB 943, Machado]) established the first re-entry facility at the old Northern California Women's Facility in Stockton, California. This facility will serve as a re-entry facility for inmates paroling to San Joaquin County, Calaveras County, and Amador County. The department is actively developing plans for adapting the site based on new design standards that have been developed to make the facilities blend in with the communities. The department has also hosted, in conjunction with the San Joaquin Superior Court, the first provider orientation in the community to start to develop the network of community resources needed to implement the re-entry model effectively.

Current Status of Re-Entry Facilities. In addition to the re-entry facility established in Stockton, the department has also entered an agreement with the City and County of San Francisco to support a 48 bed re-entry program for state prison inmates in the San Francisco County Jail.

Otherwise, the department has been actively engaged in holding web seminars and workshops with representatives from government, law enforcement, and service providers in all 58 counties. The department has also developed a conceptual program plan and several options for a prototype facility depending on the available land to site the facility.

The department reports that 19 counties have submitted proposals to site 6,950 beds in reentry facilities as part of the submissions made to receive Phase I jail funds. The CDCR indicates that it has received a total of 24 proposals for reentry and jail facilities and is expediting the process to award funds and begin construction.

Governor's Budget and Finance Letter. The Governor's budget proposal includes $727,000 in the current year and $1.1 million in the budget year to support a pre-activation team for the new Northern California Re-entry Facility (NCRF) located in Stockton. The pre-activation team will be responsible for developing policies and procedures, hiring staff, developing staffing packages, and overseeing contractor renovations.

The Governor's budget also includes $2.5 million General Fund to support a contract with San Francisco County to run a 48-bed re-entry facility in their county jail. The funding for both NCRF and the San Francisco re-entry contract are included in the population estimate.

Furthermore, a Finance Letter (dated April 1, 2008) includes $6 million General Fund for study and acquisition to support the development of additional re-entry facilities. The department indicates that these resources would be used to perform pre-planning activities, including site investigations, preliminary real estate due diligence, and entering into agreements for the option to purchase real property.

Staff Comments. Staff finds that the department has done a considerable amount of work to further develop the re-entry facility concept and educate local officials about the concept. Staff also notes that there seems to be considerable interest from local communities in siting a re-entry facility given the submissions received by the department. Nevertheless, the department has had some setbacks in Contra Costa and Shasta counties where actions were taken by the Boards of Supervisors to refuse to participate in siting a re-entry facility. This local opposition is indicative of the community opposition that is likely as the department continues to develop more specifics about potential re-entry projects.

In addition, it is unclear to staff whether the Receiver's bed plan impacts the department's plans for re-entry facilities. For example, will inmates with chronic conditions also have an opportunity to transition to a re-entry facility.

AB 900 Benchmarks – Jail Bed Construction

Background. There are two benchmarks that must be met and verified by a three-member panel comprising of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the jail bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department and local communities with regard to the benchmarks detailed below.

- **Jail beds.** At least 50 percent of Phase I jail beds must be under construction or sited.
- **Re-entry Beds.** At least 50 percent of Phase I re-entry beds must be under construction or sited.

Jail Beds

Background. Assembly Bill 900 included $1.2 billion in lease-revenue bond authority to construct up to 13,000 new county jail beds. The financing requires a 25 percent county match. Assembly Bill 900 and Chapter 175, Statutes of 2007 [SB 81, Budget]) requires that the funding be allocated to counties that help the state site re-entry facilities, increase mental health and substance abuse services for parolees, and help the state site mental health day treatment for parolees.

Status of the Jail Beds. The Corrections Standard Authority (CSA) is responsible for allocating the funds to build jail beds authorized by AB 900. The Commission started the process of developing the Request for Proposal shortly after AB 900 was enacted. The final proposals were due to CSA by March 18 of this year. The Commission is currently evaluating the proposals and making preliminary ratings for the projects submitted.

The Commission has received 24 proposals for new jail beds that total $1.2 billion. The funding available in the first phase of AB 900 for jail beds is only $750 million. On average, the counties are proposing a 46 percent match on projects. The Commission reports that 16 of the counties have accomplished initial planning and identified potential sites for a re-entry facility and 3 of the proposals have accomplished initial planning for a re-entry facility. Furthermore, 13 of the counties have agreed to assist and have identified potential locations for services for parolees and 3 other counties have agreed to assist CDCR in locating parolee services.

Staff Comments. Staff finds that to date only two counties have completely committed to the development of a re-entry facility in their respective counties (San Joaquin and San Francisco). While other counties have agreed, at some level, to help the state site a re-entry facility, there is nothing to prevent a county from retreating from its commitment. For example, CSA awards the jail monies without a clear commitment by the county to site the re-entry facility there is risk that the county may lose interest in siting the facility. Furthermore, it is unclear whether CSA will consider the relative seriousness and commitment of the county to siting a re-entry facility in its allocation of the jail monies.

Infrastructure Issues

Background. Years of deferred maintenance and overcrowding have left CDCR's infrastructure in decay. The CDCR has acute problems with its water and wastewater infrastructure and has been violating state clean water quality standards and wastewater discharge standards for years. This has resulted in expensive surcharges and penalties and adverse relations with local communities.

Assembly Bill 900 included $300 million General Fund to help address some of the department's infrastructure issues and to facilitate the construction of the infill beds. Another reason General Fund support was included in AB 900 for this purposes is because infrastructure projects that are not deemed salable assets are difficult to fund with lease-revenue bond financing.

Update on Expenditures from AB 900. The department has reported that it has allocated $35 million from the General Fund allocation provided for infrastructure in AB 900. The department has allocated this funding to the following projects:

- **Water Conservation Devices.** $15.9 million General Fund for water conservation devices that restrict excessive toilet flushing.

- **Centinela State Prison.** $6.5 million General Fund for construction of various upgrades to the waste water treatment plant at this prison.
- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** $6.1 million General Fund for construction of numerous upgrades to the waste water treatment plant that serves both of these prisons.
- **Infill Planning and Environmental Impact Reports.** $6.5 million for site assessments and planning studies to develop capital outlay budget packages for infill projects and related environmental impact reports.

Governor's Budget and Finance Letter. The Governor's budget assumes that $50 million of the AB 900 appropriation for infrastructure will be allocated in the current year and the remaining $250 million will be allocated in the budget year.

The Governor's budget and Finance Letter (dated April 1, 2008) also includes $72.5 million General Fund and $15.2 million from lease-revenue bond financing to support various other infrastructure projects that would be funded outside of the AB 900 appropriation.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Dick Ackerman
Christine Kehoe

Monday, April 14, 2008
OUTCOMES

Consultant: Keely Martin Bosler

Item **Department** **Page**

No actions were taken at this hearing.

State Administration—General Government—Judiciary—Transportation

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

Court Appointed Receiver for Medical Care

Draft Strategic Plan

Health Care and Health Care-Related Facilities—Capital Outlay

AB 900 Implementation

AB 900 Benchmarks – Prison Bed Construction

Facilities Construction Strike Team

Facilities Management Staffing

Facilities Master Plan

Infill-Beds

Re-Entry Beds

AB 900 Benchmarks – Jail Bed Construction

Jail Beds

Infrastructure Issues

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Senate Budget and Fiscal Review Subcommittee #4 on State Administration, General Government, Judicial and Transportation

April 17, 2008
10:00 a.m. or Upon Adjournment of Session
Room 2040

Commission on Juvenile Justice

1. *Bernard Warner*, Chief Deputy Secretary Juvenile Justice
   California Department of Corrections and Rehabilitation
   Co-Chair of Commission on Juvenile Justice

2. *Penelope Clarke*, Administrator, Countywide Services Agency
   County of Sacramento
   Co-Chair of Commission on Juvenile Justice

3. *Don L. Meyer*, Chief Probation Officer
   County of Yolo
   Co-Chair of Commission on Juvenile Justice

Realignment Discussion Panel

1. *Brian Richart*, Chief Probation Officer
   County of Shasta

2. *Gary Graves*, Assistant County Executive Officer
   County of Santa Clara

3. *Dan Katz*, Assistant Police Chief
   City of San Jose

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Thursday, April 17, 2008
10:00 a.m. or Upon Adjournment of Session
Room 2040

Item **Department** **Page**

State Administration—General Government—Judiciary—Transportation

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

Juvenile Justice

Juvenile Justice System Background. For the most part, the Juvenile Justice system in California is managed and funded by local government. Following the arrest of a juvenile, law enforcement has the discretion to release the juvenile to his or her parents or to take the suspect to juvenile hall and refer the case to the county probation department.

Generally, probation officials decide how to process the cases referred to them and about one-half of the cases referred to probation result in the filing of a petition with the juvenile court for a hearing. Judges declare the juvenile a ward of the court almost two-thirds of the time. The vast majority of wards (over 98 percent) are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as a juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home.

A small number of wards (under 2 percent annually) are committed to the California Department of Corrections and Rehabilitation's (CDCR) Division of Juvenile Facilities (DJF) (previously known as the California Youth Authority or CYA) and become a state responsibility. The population sent to DJF is generally the State's most serious and chronic juvenile offenders, but this may vary by county. In addition, juveniles tried in adult criminal court for particularly serious or violent crimes are placed in a DJF facility until their 18th birthday, at which time they are transferred to state prison for the remainder of their sentence. The CDCR currently operates eight juvenile correctional facilities and one conservation camp. However, the CDCR is in the process of closing two juvenile facilities in the current year.

Budget Overview

Governor's Budget Summary. The Governor's budget proposal includes $488 million to fund DJF institution and parole operations. This is about $87 million or 15 percent less than estimated expenditures in the current year due to legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) enacted in 2007 to restrict the ability of counties to send non-serious non-violent juveniles to state DJF facilities (discussed in more detail below). The per capita costs for youths incarcerated at DJF facilities are projected to be $252,312 in 2008-09.

The budget proposes a significant realignment of program expenditures in the budget year to reflect more accurate tracking of DJF expenditures.

The budget display also includes the new grant program authorized as part of SB 81 to provide counties with funding to support the youthful offenders no longer eligible for commitment to state DJF facilities. These grants are expected to increase by $42 million in the budget year to account for the growing number of youth that would stay locally under the legislation. Even with the expected growth of this block grant subvention, overall state expenditures on juvenile offenders are expected to decline because of the significant reduction in expenditures projected on the state system due to the closure of two DJF facilities (DeWitt Nelson Youth Correctional Facility and El Paso De Robles Youth Correctional Facility) in the current year.

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Juvenile Operations	207,528	283,552	76,024	36.6
Juvenile Education and Programs	205,133	84,531	-120,602	-58.8
Juvenile Parole	39,170	35,501	-3,669	-9.4
Juvenile Healthcare	122,604	84,026	-38,578	-31.5
DJF Subtotal	***$574,435***	***$487,610***	***-86,825***	***-15.1***
SB 81 Local Block Grant	23,856	66,247	42,391	177.7
Total	**$598,291**	**$553,857**	**-$44,434**	**-7.4**

***Farrell* Lawsuit Update.** In 2004, the state settled *Farrell v. Tilton* that alleged poor conditions of confinement and a lack of treatment services for youth housed in DJF institutions. As a result of this lawsuit, the state agreed to review the entire system and reform the programs provided to juvenile offenders. Beginning in 2005-06, the DJF began implementing reforms as stipulated by the *Farrell* consent decree in the following areas:

- Mental Health
- Sex Behavior
- Disability
- Education
- Medical Care
- Safety and Welfare

The state has allocated about $125 million General Fund ongoing, to date, to comply with the *Farrell* lawsuit. The state continues to work towards complying with the reforms stipulated by the *Farrell* consent decree. The budget contains an additional $2 million in the current year and $4.5 million in the budget year to support the development of additional policies and procedures directed by the *Farrell* court and to meet requirements of the *L.H.* lawsuit addressing the due process rights of juvenile parolees.

A more detailed update of the department's compliance with the *Farrell* lawsuit will be included in a subsequent hearing agenda.

2007 Juvenile Justice Reform

Background. Recent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) limited the types of juvenile offenders that could be committed to the state Division of Juvenile Facilities (DJF). Specifically, all youthful offenders adjudicated for non-violent, non-serious offenses (commonly referred to as non-707(b) offenders) would remain in local care and custody, rather than be sent to the state. (The legislation also excludes juvenile sex offenders.) When fully implemented by 2009-10 it is estimated that about 800 youthful offenders that would have been sent to state DJF facilities would remain in county care and custody. The overall objectives of the proposal were to (1) improve outcomes and treatment of youthful offenders, (2) provide rehabilitation services to youthful offenders in closer proximity to their families and communities, (3) enhance capacity of local communities to implement an effective continuum of responses to juvenile crime and delinquency, and (4) provide the resources to counties to do the job while reducing the costs to the state.

The reform proposal provided counties with a block grant that amounted to approximately $130,000 per youthful offender per year. The funding would be distributed to counties through a formula that considers a county's juvenile population and juvenile felony adjudication rate. All counties receive a minimum grant under the new statute. The proposal also included a process in which a county could "recall" a qualified non-violent, non-serious youthful offender currently committed to a DJF facility. Additional legislation (Chapter 257, Statutes of 2007 [AB 191, Budget]) further clarified some provisions of SB 81 related to sex offenders and the parole revocation process.

Update on Reform Implementation. The DJF reports that there are currently 442 youth in DJF facilities and 350 youth on DJF parole that are eligible to be recalled by the counties under the provisions of SB 81. Thus far, the counties have recalled only 11 youth that had been committed to DJF for non-707(b) offenses prior to the passage of SB 81. There is one recall pending.

The DJF also reports that 238 youths committed to DJF for non-707(b) offenses have paroled from DJF. Of this total 191 youth have been successfully transferred to county supervision and 47 youth are currently pending transfer to county jurisdiction. There are no youth missing.

The DJF also reports that it has revoked parole for 61 youth that are currently on DJF parole following incarceration for a non-707(b) offense. The department reports that all of these youth have been transferred to the jurisdiction of the appropriate probation department at the time of revocation and discharged from DJF parole.

Projected Impact on DJF Institution and Parole Population. As of June 30, 2007, 2,516 wards reside in DJF facilities. The department forecasts that the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year.

As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent.

The LAO finds that the institutional population projection for DJF may be somewhat higher than recent trends indicate. However, the LAO also finds that the projected parole population appears to be somewhat understated when compared to the most recent data.

Staff Comments. Senate Bill 81 required only a one-time submission of a plan by the counties on how it would expend the block grant provided by this legislation. Staff finds that this one-time effort does not allow for ongoing monitoring or accountability for how counties are expending the block grant funds provided under the recent legislation. Grant funds provided under the Juvenile Justice Crime Prevention Act require annual reporting to the Corrections Standards Authority. Staff finds that a similar type of reporting arrangement for the block grant monies under SB 81 could help improve accountability for there expenditures and measure the value of the state investment in juvenile probation services.

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

- Adopt draft trailer bill language to require an annual report from the counties including a report on the six outcome measures tracked in the JJCPA report. This information should be combined with the annual JJCPA reporting.

Commission on Juvenile Justice

Background. Recent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) also reconstituted the State Commission on Juvenile Justice. The Commission now has the following 12 members:

- Chief Deputy Secretary of Juvenile Justice, Co-Chair.
- County representative, Co-Chair.
- Chief Probation Officer representative, Co-Chair.
- County Sheriff representative.
- Manager of a local detention facility.
- Rank and file representative from state or local juvenile corrections.
- Representative from a community based organization that serves at-risk youth.
- An individual that represents the interests of crime victims.
- A judge in a juvenile court.
- A director of a county human services agency.
- An attorney with expertise in the area of juvenile justice policy.
- A director of a county mental health agency.

The Commission was directed in statute to develop an operational master plan for juvenile justice. Specifically, the legislation requires that the operational master plan make available for implementation (1) a risk and needs assessment tool to evaluate the programming and security needs of all youthful offenders, (2) universal data collection elements, and (3) criteria and strategies to promote a continuum of evidence-based responses for youthful offenders.

The legislation specifies that the Commission shall provide an interim report to the Legislature that includes the status of the work of the Commission and the strategies identified to date by May 1, 2008. The final operational master plan is due to the Legislature by January 1, 2009.

The 2007-08 Budget Act contained $600,000 General Fund on a one-time basis to support the Commission and the development of the juvenile justice operational master plan. Current statute would sunset the Commission on January 1, 2009.

Update on Commission. The Commission has met three times to start work on the operational master plan. The Commission has retained the services of a consultant to assist in the development of the overall plan and is working on the development of its required interim report due by May 1, 2008.

Staff Comments. Staff finds that one of the six principles of the safety and welfare remedial plan developed under the *Farrell* consent decree is to strengthen the juvenile justice continuum. This continuum of juvenile justice includes state DJF facilities and county probation facilities, but also includes other supportive services such as foster care and group homes.

While considering the juvenile justice reform proposal last year, this Subcommittee found the following:

- There are significant capacity differences among counties to meet the needs of certain youthful offenders.
- There are very few mental health resources or appropriate facilities to serve youthful offenders at the local level.
- There are very few substance abuse resources or appropriate facilities to serve youthful offenders at the local level.
- There is no standardized risk/needs assessment employed by the counties to determine what sort of placement is most appropriate for the youthful offender and this leads to considerable variety among counties regarding how they use DJF.

Staff finds that the state needs to continue to work towards strengthening the continuum of options available for juvenile offenders. A large number of counties do not have adequate local options to address the needs of their juvenile offenders. This is not only a deficiency in infrastructure, but there is also a lack of resources and current capacity to provide certain specialized services to juvenile offenders. Staff finds that more needs to be done to strengthen and standardize the continuum of care for juvenile offenders in all areas of the state.

Staff finds that the statutory direction given the Commission on Juvenile Justice was intended to strengthen the continuum of care for juvenile offenders by making available for implementation (1) a risk and needs assessment tool to evaluate the programming and security needs of all youthful offenders, (2) universal data collection elements, and (3) criteria and strategies to promote a continuum of evidence-based responses to youthful offenders.

Staff finds that the Commission on Juvenile Justice is scheduled to sunset after the operational master plan is complete. Staff finds that there may be a need to continue the efforts of the Commission beyond that date if the work of the Commission is not complete.

Local Juvenile Facility Grants

Background. Recent legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) included $100 million in lease-revenue bond authority to provide counties with grant funds to expand and enhance local capacity for youthful offender rehabilitative facilities. The legislation directed the Corrections Standards Authority (CSA) to manage the allocation of these grants.

Update on Grants. The CSA formed an executive steering committee to develop a request for proposal and rating scheme for allocating the grants. The CSA is still developing the request for proposal.

Staff Comments. As mentioned above, one of the main objectives of SB 81 was to enhance the capacity of local communities to implement an effective continuum of responses to juvenile crime and delinquency. Staff finds that in order to support this objective the request for proposal should be sufficiently broad as to allow counties to construct or buy facilities that meet their needs. For example, many counties do not have a need for additional juvenile hall space, but instead need treatment facilities, substance abuse facilities, day-treatment centers and other types of facilities.

Staff finds that the CSA staff has proposed limiting grant funds to construction costs only. Staff finds that this may limit the ability of local jurisdictions to pursue less-costly options such as purchasing a house or facility that could be used to provide a continuum of services. Last year this Subcommittee found that there were very few appropriate facilities at the county level to provide youthful offenders with substance abuse treatment and mental health treatment. Furthermore, by limiting the grant funds to construction costs only it seems that the CSA is unduly limiting the funds to projects at existing facilities. Generally speaking most counties have only limited facilities outside of juvenile halls. While converting or upgrading space at a juvenile hall should be considered a viable use of the funds, staff finds that the development of a broader spectrum of treatment facilities would better support the development of a continuum of services at the local level.

Juvenile Justice Crime Prevention Act

Background. In 2000, the Legislature modified the structure of the Citizens' Opportunity for Public Safety (COPS) program by enacting Chapter 353, Statutes of 2000 (AB 1913, Cardenas), which added a new juvenile justice component, commonly referred to as the Juvenile Justice Crime Prevention Act (JJCPA). The JJCPA program provides funding to local governments for services that target at-risk juveniles, juvenile offenders, and their families. Additional reporting requirements for the JJCPA program include an annual report that each county must submit to the Corrections Standards Authority, which then must compile an overall annual report on the program's effectiveness and outcomes. The budget has historically provided $119 million from the General Fund to support this subvention.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to the JJCPA program, which would reduce the funding provided for this program to $107 million in the budget year.

LAO Recommendation. The LAO recommends retaining the JJCPA program and combining this funding with the Juvenile Probation and Camps Funding program. The LAO finds that the statutory reporting requirements of JJCPA have enabled the state to track the outcomes of its state investment in local juvenile probation programs. Furthermore, the LAO finds that the most recent report shows that local probation departments are having some success in meeting three of the six outcomes tracked. Specifically, the report finds that arrest rates for juveniles enrolled in JJCPA programs are 4 percent lower than arrest rates for a control group of youth.

The LAO also finds that this program funds programs and services that are sufficiently similar to another state subvention program for juvenile probation (Juvenile Probation and Camps Funding) and proposes consolidating the two funding sources.

Staff Comments. Staff finds that the annual report submitted by counties has enabled the state to measure its investment in local juvenile probation services.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Juvenile Probation and Camps Funding

Background. The CDCR provides $201 million General Fund to counties for public safety programs targeting juveniles. Of this amount, $168 million is directed to support various county probation programs for at-risk youth, juvenile offenders, and their families, and another $33 million is allocated separately to counties to assist in the operation of juvenile camps and ranches. The authorizing statute stipulates a fixed allocation amount for each county for the probation support program, but allows the camp-specific funding to vary annually based on a proportionate number of occupied camp and ranch beds in each county.

Governor's Budget. The Governor's budget proposes to reduce funding for both juvenile probation and camps programs by 10 percent, which would reduce the funding provided for these programs to $181 million in the budget year.

LAO Recommendation. The LAO recommends consolidating funding for both the Juvenile Probation and Camps funding with the JJCPA grant program. The LAO also recommends reducing the combined funding for JJCPA and the Juvenile Probation and Camps Funding by 5 percent to reflect reduced administrative expenditures. Furthermore, the LAO also recommends that the Legislature approve trailer bill language to achieve this consolidation and ensure regular reporting of program outcomes to the Corrections Standards Authority.

Staff Comments. Staff finds that the Juvenile Probation and Camps funding was originally supported in 1993 by drawing down Title IV-A Emergency Assistance (EA) federal grants after a federal law change allowed probation departments to begin claiming these funds. This rule change was subsequently changed to no longer allow the direct drawdown. Nevertheless, when welfare reform was enacted by the federal government in 1996 the overall Temporary Assistance for Needy Families (TANF) block grant was sized to include probation's drawdown of federal monies. The TANF block grant monies were used to support probation until 2004-05 when the Legislature shifted TANF block grants away from probation to other priorities and backfilled this subvention with the General Fund.

Staff notes that the allocation of Juvenile Probation and Camps funding is not based on population like the JJCPA grants. Instead these grants are based on the actual amount of federal Title IV-A EA grants county probation was able to draw down in the early 1990s. Staff finds that reallocating this money on a population basis would likely change the current allocation considerably.

Staff finds that the reporting requirements under the JJCPA program provide the state useful information and has enabled the state to measure to some degree its investment in local juvenile probation services. Staff finds that a similar reporting requirement for these monies could help the state to better understand this investment as well. Furthermore, staff finds that local probation departments are currently required to prepare two reports for this grant funding and JJCPA and a combined reporting requirement would streamline local reporting requirements.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Realigning Corrections Services

Basic Principles for Improving State-Local Relationships

Background. The LAO and others have historically discussed at length the importance of evaluating California's existing "system" of government in order to develop a more rational structure for state and local government. In the past there have been efforts to "realign" the implementation and funding of programs from state government to local governments and in more limited cases from local governments to state government.

The most recent large-scale realignment occurred in 1991 when the state realigned some degree of additional responsibility for community-based mental health programs and indigent health services to local governments. This realignment was funded with an increase in the sales tax and the vehicle license fee.

Problems with California's State-Local Relationship. The LAO has noted that the relationship between the state and other local government entities in California is generally characterized by substantial fiscal and programmatic tension. The increased pressure of the state's current financial problems has further exposed other weaknesses inherent in our existing system of government, which further encourages cost-shifting between levels of government and does not encourage accountability for program results. The LAO has identified the following seven problems with the state-local relationship in California:

1. **Counterproductive Fiscal Incentives** – Fiscal incentives are present which encourage decision-makers to choose the least costly option from their perspective, even when this option is the least effective or most costly option from a statewide or overall program perspective.
2. **Inappropriate Assignment of Responsibilities** – Existing assignments do not recognize constraints on the ability of the state or local government to carry out program responsibilities.
3. **Failure to Avoid Duplication and Realize Scale Economies** – The existing system requires extensive duplication of efforts by local agencies and the state in the administration of programs, and precludes the realization of scale economies that might be achieved through consolidation of these efforts.
4. **Inappropriate Exercise of Administrative Oversight** – Existing program reporting and monitoring requirements are serving little useful purpose, and are diverting scarce resources from more productive uses.
5. **Unproductive Competition for Resources** – The existing system pits local agencies against each other in a competition for taxpayer resources. This competition sacrifices good land use practices, job development, and interagency cooperation in the process.
6. **Lack of Accountability for Program Outcomes** – The system fails to adequately link program spending control and funding responsibility, so that decision-makers are not accountable for program outcomes.
7. **Erosion of Local Control** – The system has eroded local fiscal capacity by redirecting local resources to pay for increasing the costs of state-required programs.

Basic Principles of Realignment. The LAO has made numerous realignment proposals over the years, including its recommendation this year to realign a portion of the parole system from the state to local government. All of these proposals have been based on four basic principles for realignment. The basic principles are as follows:

- Link program control and funding responsibilities.
- Align redistributive programs (like welfare) at the highest level of government to avoid uneven service levels that create adverse incentives for migration.
- Recognize program linkages by restructuring to promote coordination of service delivery mechanisms and remove barriers to innovation.
- Rely on financial incentives to promote prevention and coordination.

These principles reflect recognition that there is a significant practical interrelationship between all of the services provided by government. That is, better efforts to provide services in one program area can reduce the demand for services in other areas. Further, greater use of collaborative efforts across program areas can be more successful than program efforts pursued separately.

Important Objectives of Realignment. In addition to the basic principles of realignment listed above, the LAO has put forward several key objectives for any model of realignment. First, the LAO notes one of the keys to achieving greater effectiveness lies in promoting the interest of local communities in working together towards common goals. The state also has an interest in the success of local communities, as this translates into both lower demands for state services and a stronger economy. However, the LAO notes that poorly matched program control and funding responsibilities often restrict these efforts by local communities. The resolution of these problems should be a central objective of reform.

The LAO also notes that greater attention to outcomes is needed of all government social services and corrections programs. The basic objective of the majority of these programs is to restore some degree of individual independence and lessen the need for additional social services, treatment, or incarceration. The LAO finds that local agencies should be given more flexibility to deliver the appropriate mix of services needed to minimize further government intervention. However, the LAO also finds that local governments should be held more accountable for program outcomes.

Finally, the LAO notes that one of the most often cited complaints about the current system is that, while local agencies must operate and fund state-required programs, they have little control over service levels or approaches to service delivery. The LAO notes that allowing full program control over service levels and delivery approaches in locally operated programs is important to achieving greater effectiveness in locally operated programs. The LAO notes that this control must be provided if local governments are to be held accountable for program outcomes.

Three Steps to Realignment. The LAO has identified the three major steps or changes that should be included in any realignment model. Each of these changes is a crucial component to any realignment proposals. The three steps are as follows:

- Changes in the assignment of primary program control and delivery responsibilities.

- Changes in state and local revenue sources to support the program assignment changes.
- The establishment of new incentives and sanctions to promote the achievement of broad public goals.

Corrections Realignment. Based on the principles and objectives of realignment listed above, the LAO finds significant benefits to a corrections model that has a greater reliance on community-based institutionalization and alternatives to state prison sentences. The LAO notes that a community correctional approach would have the following benefits:

- Potential for greater integration with other community-based service programs.
- Potential for reduced recidivism.
- Cost reduction for treatment of nonviolent offenders.

The LAO finds that because each community would remain responsible for any costs associated with individual offenders under this model, it create greater incentives to develop alternative methods to incarceration and to provide whatever services would be necessary to minimize additional government intervention.

The LAO notes that even under a corrections model that relied more heavily on community-based institutionalization and alternatives to state prison sentences, there would still be a state role in providing long-term custody of persons sentenced to life imprisonment. The LAO finds that the state could provide prison beds to local communities on a cost-recovery basis.

Transition Issues. The LAO notes that there are some issues involved with the transition contemplated by a large-scale realignment, especially in the area of corrections. Specifically, the LAO has identified the following issues:

- Facility Constraints – Transitioning to a community-corrections model would involve the expansion of local jails and other facilities. The LAO suggests that title of some state prisons could be transferred to local agencies. However, time would be needed to build additional local capacity.
- Sentences of Current Prisoners – The LAO notes that under their model a method would need to be developed to enable state prisoners to be transferred to local arrangements.
- Public Employees – The model would also impact the status of many state and local employees and actions would need to be taken to transfer state employees to local employment.

Parole Realignment

Previous Subcommittee Hearing. At the March 12 meeting of this Subcommittee, the LAO's parole realignment proposal was presented and discussed. The Subcommittee also heard considerable public testimony on concerns related to the LAO's proposal to finance the realignment, especially the re-allocation of property taxes received by special districts and Proposition 172 state sales tax revenues currently distributed to cities.

LAO Parole Realignment Proposal Summary. The LAO has recommended, as part of its alternative budget package, the realignment of the supervision of lower-level offenders released from state prison to the counties. This proposal would provide about $495 million to counties through a shift of existing revenues and save the state approximately $483 million in the budget year. The LAO proposes that the $12 million provided to counties in excess of what the state currently expends be allocated as incentive grants to encourage innovation.

The state currently supervises virtually all offenders released from prison, including over 70,000 offenders that have been convicted of property and drug offenses. Under the LAO's alternative, responsibility for supervising these lower-level offenders would be shifted from the state to the counties. The county would also be responsible for incarcerating these offenders if they commit violations of their probation conditions. Specifically, the LAO proposes shifting offenders whose current conviction is a property or drug offense. Figure 1 shows the offenses for which offenders would be transferred to probation supervision under the LAO's proposal.

Figure 1: Parolees Proposed for Realignment to Local Probation, June 30, 2007

Current Offense	**Number of Parolees**
Property Offenses	
Second degree burglary	7,482
Vehicle theft	7,128
Petty theft with a prior theft	6,159
Receiving stolen property	4,920
Forgery/fraud	4,104
Grand theft (over $400)	3,736
Other property offenses	1,146
Subtotal, Property Offenses	***34,675***
Drug Offenses	
Drug possession	19,046
Drug possession for sale	12,057
Marijuana possession for sale	1,280
Marijuana sales	538
Other marijuana crimes	179
Hashish possession	49
Subtotal, Drug Offenses	***33,149***
Driving under the influence	3,539
Total, All Offenses	**71,363**

The LAO proposal would significantly increase local probation caseloads and costs, but it would also provide significant additional resources for local probation and public safety programs. The LAO estimates that the proposal would result in a 25 percent increase in funding for counties and a 20 percent increase in probation caseloads. Therefore, the LAO suggests that counties would receive significant new revenues to expand supervision, enhance rehabilitation programs, and pay for jail costs to re-incarcerate probation violators.

Services Enhanced by Realignment. The LAO is recommending realignment of parole because they find that local control would yield better outcomes for these offenders and public safety. This proposal is generally consistent with the LAO's recommended principles and objectives of realignment. Specifically, this proposal recognizes that restructuring parole to a more community-based model could promote coordination of service delivery mechanisms and remove barriers to innovation.

This is not an issue of whether parole officers are less effective than their counterparts in probation. Instead, under realignment, the LAO finds that counties would have greater fiscal incentives to intervene and treat offenders because they would pay the costs of incarcerating offenders that commit violations of their probation conditions.

The LAO also finds that parole realignment would encourage more small-scale experimentation at the local level. Because local government is responsible for a number of different programs (substance abuse treatment, mental health, education, etc.), they would be more likely to try different models for intervention and treatment of offenders.

Furthermore, providing funding to the counties would enable them to more effectively develop a more robust continuum of services, including investments in prevention and intervention programs that might yield significant improvements to public safety in the longer term.

Economies of Scale Achieved by Realignment. The LAO finds that under the current system local probation and state parole fulfill very similar functions. Both systems supervise offenders in the community, monitor their compliance with state laws and other conditions, as well as provide programs and services designed to reduce recidivism. Furthermore, most of the offenders on parole and probation have the same general needs--substance abuse treatment, employment, and treatment to address criminogenic behavior. The LAO also finds that this duplicative system does not allow for economies of scale that could reduce the overall costs of supervision and providing services to offenders in communities.

Reduces "Churning" in State Prison System. The state prison system is not designed to address the needs of offenders that have relatively short sentences for parole violations (generally only a few months). The state's current Reception Center process entails numerous processes, court-ordered health screenings, and educational assessments that are focused on supporting a housing placement for an offender in state prison. These processes are not focused on re-entry into the community. The LAO finds that parole realignment will assist in reducing the "churning" that currently happens due to the large volume of offenders sent to state prison for parole violations. Staff finds that the current system that treats our state prison like a jail system is not effective nor is it an efficient use of state taxpayer monies.

Issues to Consider. Staff finds that structuring a realignment proposal, such as the one outlined by the LAO, should follow basic reform principles and objectives for improving state-local relationships and the provision of government services. The following are issues that the Legislature should consider in evaluating a realignment of parole services:

- **Ensure Link Between Program Control and Funding Responsibility.** Staff finds that if control over parole services is shifted to the counties, funding to support this effort should also be shifted. Furthermore, staff finds that if counties are provided the funding to support this service they should have the autonomy to develop programs and services tailored to meet the needs of the offenders returning to their community.
- **Encourage Program Linkages.** Staff finds that shifting parole services to the counties would enable counties to promote coordination of service delivery. Since ex-offenders often have needs for many different services—housing, job skills, mental health services—a more community-driven focus could help to better coordinate the delivery of these services and remove barriers to innovation. Staff finds that any realignment of parole services should allow counties to determine how these resources will be allocated to support community services.
- **Provide Financial Incentives for Success.** Staff finds that any realignment of parole services requires developing financial incentives that encourage success. Currently, local communities do not have sufficient financial incentives to ensure the success of parolees in their communities. If parolees fail in the community, they are often returned to state prison on a parole violation and the full costs of this failure are borne by the state. Any realignment of parole services must limit the counties' ability to transfer the costs of failed rehabilitative programs to the state. This means that there would need to be significant changes made to the parole revocation procedures for the parolee population transferred to the counties.
- **Outcome Measures Needed.** Staff finds that generally more attention is needed to the outcomes of parole and probation programs. The basic objective of parole and probation programs is to restore some degree of individual independence and lessen the need for additional treatment or incarceration, thereby improving public safety and reducing future victims. The LAO finds that additional information and outcome measures are needed for local probation services, especially if some realignment funds are to be provided as incentive/innovation payments.
- **Take Care to Support Transition.** Staff finds that re-entry and the transition from state prison to local communities is an important linkage that needs strengthened. Any realignment of parole services would need to take care to support this transition by ensuring that all relevant information on parolees be transferred from the state to the county. Currently the Parole LEADS information technology system allows local law enforcement to access information about parolees, but the LAO finds that successful probation supervision will require that the state transfer additional information to the counties that will enable probation to identify risks and needs of the parolee.
- **Mitigate Operational Transitions.** The LAO notes that parole realignment would have significant operational impacts for both the state and counties, including staffing and the provision of services and sanctions for parolees. The LAO suggests that the Legislature develop strategies to mitigate these operational transitions. One option for easing this transition would be to continue the state provision of services in the budget year and have the counties reimburse the state for its costs. These reimbursements would cease after the counties assumed supervision responsibility for the parolees.

Options for Funding Parole Realignment

Previous Subcommittee Hearing. The Subcommittee heard considerable testimony at its March 12 hearing on the concerns that water and waste water districts have regarding the LAO's financing proposal for parole realignment. The Subcommittee also heard considerable testimony from cities regarding the proposed shift of Proposition 172 sales tax monies.

LAO Proposal to Fund Parole Realignment. The LAO has proposed funding parole realignment by shifting existing state revenues to the counties to support this purpose. Specifically, the LAO recommends reallocating the following revenues:

- Property taxes currently allocated to water and waste districts, $188 million.
- Proposition 172 sales taxes currently allocated to cities, $178 million.
- Vehicle license fee (VLF) revenues currently supporting the Department of Motor Vehicles (DMV), $130 million.

The LAO proposes reallocating about 50 percent, on average, of the property taxes that are currently allocated to water and waste districts. The LAO notes that some counties would have to shift more revenues than others since some counties currently have no or limited property taxes allocated to special districts. The LAO indicates that no county would shift more than 70 percent of county-wide district property taxes. A shift of voter-approved property taxes and property assessments (revenues above the 1 percent allocation) would be exempt from reallocation. The reallocation of these revenues would require a county-driven process.

The LAO also proposes reallocating 6 percent of total statewide Proposition 172 sales tax revenues currently allocated to cities to fund parole realignment. Staff finds that this allocation of Proposition 172 revenues was made in 1993 to cities that sustained property tax (ERAF) reductions.

The LAO also proposes shifting $130 million in VLF revenues that currently support the DMV to fund parole realignment. The LAO estimates that the DMV may need to increase the registration fee by about $4 per vehicle to offset reduced VLF revenues. The LAO finds that when the VLF rate was reduced, support for DMV was held harmless. This action increased the overall percentage of VLF revenues supporting DMV operations. The LAO's proposal would ensure that the DMV was fee-funded as intended by the Legislature.

Other Options for Funding Realignment. The LAO points out that its funding proposal to reallocate existing revenues is just one option for funding parole realignment. The LAO indicates that the state could shift General Fund revenues to the counties to fund this activity. However, staff finds that this would be difficult given the current budget situation. The LAO also indicates that a new tax could be imposed to provide additional revenues to the counties to carry out the parole realignment function.

Avoiding Mandates. Under the State Constitution, the state generally must provide a subvention to local governments if it mandates a new program or higher level of service, which increases local governments' costs. The LAO notes that their proposal does not appear to impose a mandate because it provides counties with sufficient revenues to fully offset the new programs.

Staff finds that any realignment proposal would have to be accompanied by a state subvention or new revenue source in order to avoid imposing an unfunded mandate.

Restrictions Under Proposition 1A. Proposition 1A, approved by the voters in 2004, amended the State Constitution to reduce the Legislature's authority over local finance. However, the LAO believes that nothing in its proposal conflicts with the requirements of Proposition 1A. Specifically, Proposition 1A does not limit the Legislature's ability to reallocate Proposition 172 revenues or the VLF retained by the DMV. The property tax reallocation would require the counties to shift the property tax and the LAO admits that this shift would require a two-thirds vote to comply with Proposition 1A.

Staff finds that any funding options considered by the Legislature to fund realignment need to comply with the provisions of Proposition 1A.

Local Law Enforcement Subventions

Background. For the most part, public safety is a matter of local control in California. While the state establishes laws regarding criminal conduct and sentencing, control and funding for public safety occurs mainly at the local level. The State Controller's Office reports that in 2004-05, cities and counties together spent over $24 billion on public safety. In contrast, the state is provided approximately $538 million in major state subventions from the General Fund to support local law enforcement in the current year, which is approximately two percent of the total budget for public safety including all local funds.

In addition, the voters enacted Proposition 172 in 1993, which amended the State Constitution to dedicate a one-half cent sales tax to help finance local public safety. The Legislature proposed this measure to mitigate the effects of a shift in local property taxes. Local governments will receive approximately $3 billion from this revenue source in the budget year. This revenue source has grown, on average, 5.2 percent annually since it was enacted in 1993.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to all of the major state subventions from the General Fund to support local law enforcement in the budget year. Selected subventions and their proposed funding level are listed in the following figure:

Figure 1: Selected Local Law Enforcement Subventions, General Fund

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

There are additional local law enforcement subventions listed in the LAO's analysis that are implemented by the Department of Justice and the Office of Emergency Services. Other local law enforcement subventions will be handled in subsequent hearings on the Department of Justice and the Office of Emergency Services.

LAO Recommended Approach. The LAO has recommended an alternative approach for evaluating the state subventions from the General Fund to local law enforcement. Specifically, the LAO recommends that the Legislature reject the Governor's across-the-board approach and instead prioritize program reductions based on the following criteria:

- Eliminate programs that lack specific statewide objectives.
- Eliminate programs that have demonstrated poor results in achieving their goals. For programs that have not reported results, reduce funding by 25 percent and make funding in subsequent years contingent on demonstrating program effectiveness.
- Eliminate General Fund support for programs that could be receiving special funds or funds from other sources.
- Consolidate programs that have overlapping objectives.
- For all programs that do not fall into one of these categories, or for programs that are a high state priority, maintain funding at the current level.

Overall the LAO recommends that the Legislature reduce the major local subventions to law enforcement by approximately 44 percent. The following figure summarizes the LAO's recommendation:

Figure 2: LAO Recommendations for Local Law Enforcement Subventions, General Fund

Summary of Expenditures (dollars in millions)	2007-08	2008-09 Governor's Budget	2008-09 LAO Alternative
Type of Expenditure			
Citizens' Option for Public Safety	$119	$107	$0
Juvenile Justice Crime Prevention Act	119	107	0
Small/Rural Sheriffs Grants	19	17	0
Local detention facility subventions	35	32	0
Juvenile Probation and Camps Funding	201	181	304
Mentally Ill Offender Crime Reduction	45	41	0
Total	**$538**	**$485**	**$304**

Citizens' Option for Public Safety

Background. Under the Citizens' Option for Public Safety (COPS) program, counties and cities receive state funds, on a population basis, to augment primarily local funds for district attorneys, county jail construction and operation, and front-line law enforcement. An oversight committee in each county is responsible for reviewing local government expenditures of funds to ensure statutory compliance and reporting expenditures to the State Controller's Office.

In 2000, the Legislature modified the structure of the COPS program by enacting Chapter 353, Statutes of 2000 (AB 1913, Cardenas), which added a new juvenile justice component, commonly referred to as the Juvenile Justice Crime Prevention Act (JJCPA). The budget has historically provided $119 million from the General Fund to support this subvention.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to the COPS program, which would reduce the funding provided for this program to $107 million in the budget year.

LAO Recommendation. The LAO recommends eliminating funding for the COPS program. The LAO finds that this program has no definable goals or performance measures by which to judge this program, making its impact on public safety unknown. The LAO finds that this program appears to take what is a local government responsibility and shift some of the costs to the state.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Small/Rural Sheriffs Grant Program

Background. By statute, the Small/Rural Sheriffs Grant program appropriates $500,000 annually from the General Fund to each of 37 county sheriff departments, for a total annual appropriation of $18.5 million.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to the grant amounts provided to each of the 37 county sheriff departments, thereby reducing the total appropriation for this program to approximately $17 million General fund in the budget year.

LAO Recommendation. The LAO recommends eliminating funding for the Small/Rural Sheriffs Grant program. Like the COPS program, the LAO finds that this program has no definable goals or performance measures by which to judge this program. The LAO finds that this program appears to take what is a local government responsibility and shift some of the costs to the state.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Local Detention Facility Subventions

Background. Booking fees are charges that counties impose on cities and other local agencies to recover the costs associated with booking persons into the county jail. The Legislature first authorized the use of such charges over a decade ago and, since that time, it has provided some fiscal relief for cities facing these fees. Currently, the state restricts counties from charging booking fees and, in exchange, provides counties with subventions intended to offset the resulting loss in revenue.

State law allows counties to charge booking fees if the state allocates less than $35 million in subventions to counties. The budget has historically provided $35 million from the General Fund to support this subvention to counties.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to this subvention in the budget year, thereby reducing the subvention to $32 million General Fund in the budget year. At this level of state appropriation, current law would allow counties to charge cities booking fees of approximately $3 million to make up for the reduced appropriation.

LAO Recommendation. The LAO recommends eliminating the funding the state provides to counties not to charge booking fees since this policy does not support a statewide criminal justice objective. The LAO also recommends amending state law to allow counties to charge booking fees commensurate with the actual administrative costs of a booking. The LAO notes that doing so will provide cities with the proper incentives for using county jail space efficiently.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Mentally Ill Offender Crime Reduction Grant Program

Background. The Mentally Ill Offender Crime Reduction (MIOCR) Grant program was designed as a demonstration grant program to aid counties in finding new collaborative strategies for more effectively responding to the mentally ill offenders who cycle through county jails. Services provided through the MIOCR grant vary by project but have often included housing support, employment training, benefits advocacy, and day treatment. Historically, the budget has funded this subvention at $45 million. However, in the current year, only $30 million was allocated because there was projected to be unspent funds in the 2006-07 fiscal year that were carried over for expenditure in the current fiscal year.

The Corrections Standards Authority (CSA) administers this grant program and has historically split the funding evenly between juvenile and adult programs.

Governor's Budget. The Governor's budget proposes a 10 percent reduction to this subvention in the budget year off of a base funding level of $45 million. Therefore, the Governor's budget proposes approximately $41 million General Fund to support MIOCR in the budget year.

LAO Recommendation. The LAO recommends that the Legislature eliminate funding for this program given the recent passage of Proposition 63, the Mental Health Services Act that provides counties with a new source of funding that can be used to support this type of effort at the local level. Mental Health Services Act revenue receipts are estimated at $1.5 billion in the budget year.

Staff Comments. Staff finds that the MIOCR grant funds have been used to support numerous innovative programs that have helped to divert mentally ill youth and adults from incarceration. Staff also finds that these efforts are eligible for funding through the Mental Health Services Act. The Mental Health Services Act provides approximately $1.5 billion in new revenues annually to support various mental health programs at the local level. Specifically, the budget includes $921 million for Community Services and Support and $251 million for Prevention and Early Intervention. Staff finds that funding for programs historically funded by the MIOCR grant program would be eligible for funding under either of these programs. Staff finds that the

MIOCR program was specifically not included as a part of the state's maintenance of effort under Proposition 63.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Thursday, April 17, 2008
OUTCOMES

<u>Item</u> **<u>Department</u>** **<u>Page</u>**

State Administration—General Government—Judiciary—Transportation

Juvenile Justice

Budget Overview

2007 Juvenile Justice Reform

Action.

- Adopted draft trailer bill language to require an annual report from the counties including a report on the six outcome measures tracked in the JJCPA report. This information should be combined with the annual JJCPA reporting.

Vote. 3-0

Commission on Juvenile Justice

Local Juvenile Facility Grants

Juvenile Justice Crime Prevention Act

Action. Held this issue open.

Juvenile Probation and Camps Funding

Action. Held this issue open.

Realigning Corrections Services

Basic Principles for Improving State-Local Relationships

Parole Realignment

Options for Funding Parole Realignment

Local Law Enforcement Subventions

Citizens' Option for Public Safety

Action. Held this issue open.

Small/Rural Sheriffs Grant Program

Action. Held this issue open.

Local Detention Facility Subventions

Action. Held this issue open.

Mentally Ill Offender Crime Reduction Grant Program

Action. Held this issue open.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Part A
Monday, April 21, 2008
10:00 a.m.
Room 3191

State Administration—General Government—Judiciary—Transportation

0750 Office of the Lieutenant Governor

Under California's Constitution, the Lieutenant Governor (LG) serves as Acting Governor whenever the Governor is absent from the state, and automatically becomes Governor if a vacancy occurs in the Office of Governor. The Lieutenant Governor is also President of the Senate and votes in case of a tie. In addition, the LG serves as a voting member of the Board of Regents of the University of California and a voting member of the Board of Trustees of the California State University system. Finally, the LG serves on the three-member State Lands Commission, which oversees the control and leasing of millions of acres of state owned land, including offshore oil resources, as well as use and permitting for all navigable waterways in California.

The proposed 2008-09 Budget includes total General Fund expenditures of $2.8 million, and approximately 30 positions, for support of the Office of the Lieutenant Governor. This is a decrease of approximately $382,000, or 12.1 percent, below estimated current year expenditures. This change is primarily the result of two factors (1) elimination of a $100,000 one-time augmentation in 2007-08; and (2) an ongoing $307,000 budget cut to help close the State's General Fund deficit.

Staff Comments: The proposed ongoing budget reduction would result in the non-filling of vacant positions and a reduction in other operating expenses within the office.

Staff Recommendation: Approve the budget, including the budget reduction.

0690 Office of Emergency Services

The primary purpose of the Office of Emergency Services (OES) is the coordination of emergency activities to save lives and reduce property losses during disasters, and to expedite recovery from the effects of disasters. During an emergency, the OES functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act and applicable federal statutes. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, the Office of Homeland Security (OHS) develops, maintains, and implements a statewide comprehensive homeland security strategy to prevent terrorist attacks within the state, reduce the state's vulnerability to terrorism, minimize damage from attacks that may occur, and facilitate the recovery effort. The OHS also serves as the state administering agency for federal homeland security grants and the state's primary liaison with the U.S. Department of Homeland Security.

Proposed for Vote Only/Consent

1. **Nuclear Planning Assessment Special Account (BCP #31).** Provides a $99,000 to reflect the Consumer Price Index (CPI) rate increase. This augmentation is guaranteed by G.C. 13308.05

2. **Waste Isolation Pilot Program (BCP #35).** Provides a $91,000 increase in reimbursement authority. Activities related to the Waste Isolation Pilot Program are reimbursed by the California Energy Commission.

3. **High Technology Theft Apprehension and Prosecution Fund (HTTAP) (BCP #27)**. Adds Budget Bill language to revert unused HTTAP funds back to the General Fund at the end of each fiscal year.

4. **Mentoring Children of Incarcerated Parents Program (BCP #24).** *Reduces* Federal Trust Fund Authority for the program by $270,000, because the program ended January 31, 2007.

5. **Technical Corrections to the budget display (BCP #25)**. Makes technical changes to the budget display to provide a more accurate reflection of spending by individual programs.

6. **Residential Substance Abuse Treatment (BCP #17).** Provides a $970,000 increase in Federal Trust Fund Authority to utilize available funding from the Bureau of Justice Assistance.

7. **Justice Assistance Grants (BCP #20)**. Provides 4 permanent positions funded by existing Federal Trust Fund Authority to address additional workload created by federal mandates, an increase in federal grants, and increased law enforcement participation in the Counter Drug Procurement Program.

8. **California Specialized Training Institute (CSTI) Reimbursement Authority (BCP #18).** Provides a $1.3 million increase in reimbursement authority to accommodate a "surge in demand" for all-hazard disaster management training and exercise services provided by CSTI, because few others offer courses that meet California standards.

9. **Port and Maritime Security Program (Item 0690-101-6073)**. The budget provides $57 million in Proposition 1B funding for allocation. Chapter 181, Statutes of 2007 (SB 88) required the Office of Homeland Security to incorporate the State's most urgent security needs, balance the demands of each port and provide reasonable balance in the geographic distribution of funds into its funding determination. No issues have been raised with this item. However, staff recommends the following Budget Language be added to provide clarity on the expenditure of this funding, <u>"1. Of the amount appropriated in this item, allocation of funding shall be done in a manner consistent with Chapter 181, Statutes of 2007 (SB 88)."</u>

10. **Transit Safety Security Program (Item 0690-101-6061).** The budget provides $100 million in Proposition 1B funding for allocation. Chapter 181, Statutes of 2007, specifies that sixty percent of the bond funds shall be allocated according to the existing statutory formula for State Transit Assistance, twenty-five percent shall be

allocated for capital expenditures to regional public waterborne transit agencies, and fifteen percent shall be allocated to intercity passenger rail systems. No issues have been raised with this item. However, staff recommends the following Budget Language be added to provide clarity on the expenditure of this funding, <u>"1. Of the amount appropriated in this item, allocation of funding shall be done in a manner consistent with Chapter 181, Statutes of 2007 (SB 88)."</u>

Staff Recommendation: Approve above items as budgeted with any identified modifications.

Proposed for Discussion

11. **Public Safety Radio Strategic Planning Committee (PSRSPC).** Currently, the Office of Emergency Services chairs the PSRSPC. Responsibilities of the PSRSPC include development and implementation of a statewide integrated public safety communications system that facilities interoperability among state public safety departments and coordinating other shared uses of the public safety spectrum consistent with decisions and regulations of the FCC. According to the most recent PSRSPC report, the State's public safety agencies, through the PSRSPC, have decided to continue to operate their own separate radio systems (i.e. forego the inherent interoperability that would result from a shared, multi-agency radio system) and, instead, to adopt a "system of systems" approach.

    Staff Comments: OES should provide the subcommittee with an update on radio interoperability that minimally addresses:
    - The coordination of technology changes with upgrading radios for interoperability.
    - Is there a standard for interoperability and is it being implemented?
    - Is there a definition in operational terms of what constitutes a "system of systems"?

12. **Emergency Management Performance Grant (EMPG) Increase.** The federal EMPG program provides resources to assist State and local governments to sustain and enhance all-hazards emergency management and response planning capabilities. The grant can be used broadly, for activities, contracts, and positions relating to disaster planning and management, and the funding requires a 50% cash or in-kind match from the State. The EMPG grant is administered by the OES.

    Background: The 2007 baseline grant amount was $15,390,351. In January 2008, the OES submitted a BCP indicating that due to a federal change, it anticipated receiving a $5 million increase in EMPG funding for 2008-09, bringing the baseline to $20,390,351.

Of the $5 million increase, the OES requested $3.4 million for state operations (BCP #26) which it would "match with existing resources." The OES requested that the remaining $1.6 million be applied toward 19 new positions in the three regional offices (BCP #1) and be matched with an additional $1.6 million General Fund.

In April, the OES submitted a letter (SFL #2) indicating that it would receive a $7.7 million baseline increase in EMPG funds - $2.7 million more than anticipated in January. The OES requests that in 2008-09 $2 million be given in one-time local assistance, and $665,000 be retained for state operations (in addition to the previous $3.4 million requested). In 2009-10, the OES requests retaining all $2.7 million for unspecified state operations. The OES had indicated that it will use a "global" (in-kind) match for these funds.

Staff Comments: The EMPG grant is unusually flexible in both its utilization and matching guidelines. The necessity of absorbing $4 million (more than half of the $7.7 million increase) in state operations in 2008-09 and $6.1 million in 2009-10 is unclear.

The flexibility of the EMPG funding uses warrants a more comprehensive discussion of OES spending priorities, and whether more of its highest priorities can be funded through EMPG. Moreover, the ability to use an in-kind State match calls for an examination of how to maximize the use of these federal funds using as little of the General Fund as possible, considering the state's current fiscal situation.

OES's Stated Spending Priorities:

Regional Operational Readiness (BCP #1). The OES requests $3,294,000 ($1,647,000 General Fund and $1,647,000 EMPG) and 19 positions to increase readiness at the three regional offices. These offices provide administrative oversight and coordination of mutual aid, as well as direct service delivery in the areas of emergency preparedness, response, recovery, and mitigation efforts.

The proposed positions will be assigned to the three regional offices to increase effectiveness in emergency response and management, and to comply with additional state and federal reporting requirements.

Staff Comments: The OES is trying to plan for the possibility of multiple catastrophic events occurring simultaneously, rather than addressing an identified deficiency in services. Given the condition of the state General Fund, the existing level of regional office staff seems appropriate if the creation of new positions will rely on a General Fund match.

The grant's matching flexibility should be taken into account. The necessity of relying on a General Fund match, rather than using $3,294,000 EMPG funding for the positions and trying to find an in-kind match of existing resources is unclear.

OES State Operations Increase (BCP #26). The OES requests $3,353,000 in Federal Trust Fund authority for state operations related to an increase in the Emergency Management Preparedness Grant. The total local assistance level of $7,100,000 will remain the same.

EMPG Grant Increase – State Operations and Local Assistance (SFL #2). California's federal EMPG Grant has been increased, both in a one-time supplement of $4 million and an on-going baseline increase of $7.7 million. The OES requests that the $4 million one-time augmentation fund 8 specific emergency preparedness and response projects, including the development of various emergency response coordination protocols. The OES also requests that $5 million of the baseline increase be granted for BCP #1 and BCP #26.

In 2008-09 the OES requests $665,000 of the remaining funds be used for state operations and a $2 million Federal Trust Fund Authority for local assistance. The $2.7 million EMPG baseline increase will be ongoing. In 2009-10, the OES requests the $2.7 million increase in Federal Trust Fund Authority entirely for state operations.

Staff Comments: EMPG funds are loosely regulated, and can be used toward a variety of disaster preparedness, response, and coordination efforts, and should be used toward the OES's highest priorities. In both BCP #26 and SFL #2 the specific uses for the funds are unclear.

Can EMPG funds be used to backfill the $1.9 million Mutual Aid reduction proposed in the Governor's Budget?

If the OES can match the most recent $2.7 million EMPG increase with existing resources, is that $2.7 million best absorbed by state operations or another priority?

Staff Recommendation: Hold open. An unanticipated influx of loosely regulated federal funds for emergency management and preparedness demands an exploration of OES funding priorities, and potential uses for new EMPG funds.

13. **Operational Area Satellite Information System (OASIS) (BCP #3).** The OES requests $2 million General Fund to increase OASIS bandwidth. OASIS is the satellite system that provides redundant voice communications in the event the Public Switch Telephony Network fails (due to a manmade or natural disaster).

    OASIS currently assures redundant satellite phone and data communications to Emergency Operational Centers in all 58 counties, the State Warning Center, the State Operational Center, and other state agencies. This funding would extend the lease on its current bandwidth, and expand the bandwidth to accommodate the need for OASIS in an emergency covering 50% of the state.

Staff Comments: It does not appear that the current bandwidth capacity of OASIS has created any major operational impediments in response efforts to date, and it is not clear whether potential deficiencies would exist due to technology, rather than a lack of mutual aid protocols. The California Highway Patrol and other entities currently have redundant phone and data communication systems.

Moreover, the use of a purely satellite system may not be the appropriate technology. The OES should look into more portable and less expensive options for achieving the same functionality before expanding the current system.

The OES has indicated that it has recently received a one-time federal Public Safety Interoperable Communications (PSIC) Grant, $1.3 million of which can be applied to the OASIS program. This application would reduce the General Fund request to $708,000.

Staff Recommendation: Hold open until funding sources and technology concerns are resolved.

14. **Critical Communications – Equipment Replacement (BCP #5).** The OES requests $3 million General Fund to replace failing or obsolete telecommunications equipment used to respond to, and coordinate in, emergencies.

Specifically, the proposal provides for the following equipment replacement:

i.	CLERS, FIRE & Mobile Relays	$2,375,000
ii.	UHF & MHz Cache Portable Radios/Accessories	$ 540,000
iii.	UHF & 800 MHz Mobile Radios	$ 115,000

The equipment identified in this request is more than 5 years old and according to industry standard should be replaced. The replacement equipment will meet Federal Communication Commission requirements and be compliant with Project 25, the federal equipment and narrowband standards with which all such equipment must comply by 2013.

Staff Comments: The OES has indicated that a portion of the PSIC grant is has received can be used to off-set $2.2 million of this General Fund request. OES has indicated that it will still request $546,000 GF toward the match requirement, and $300,000 toward ongoing maintenance of equipment, which is not covered by PSIC.

The specific PSIC match requirements should be explained, and possible in-kind matches explored in order to maximize the use of federal funds. Moreover, the necessity of $300,000 GF for ongoing maintenance in 2008-09 is unclear.

Staff Recommendation: Hold open until funding sources and ratios are resolved.

15. **Capital Outlay – Southern Region Facility.** The OES requests $963,000 General Fund for Preliminary Plans to build a new $23.6 million Southern California Regional Emergency Operation Facility. The existing Southern Region facility is comprised of two modular buildings totaling 7,200 square feet, and is located at the Los Alamitos Armed Forces Reserve Center. The new facility proposed would be approximately 33,180 square feet in a permanent, newly constructed building that can serve as an alternate State Operation Center.

    Staff Comments: The Southern Region facility was intended to be temporary, and OES believes it is not equipped to house the necessary staffing levels during a large Southern California emergency. However, the need for a structure nearly 5 times the size of the current facility has not been clearly expressed. OES has not explored the possibility of a joint use facility. Furthermore, additional GF pressure to staff a new facility has not been taken into account.

    Staff Recommendation: Deny the request.

16. **Alert and Warning System (BCP #2).** The OES requests a $230,000 General Fund increase to the Alert and Warning System, an externally managed system which notifies state and local agencies, media, and public of emergencies. This proposal creates 1 two-year limited-term position ($95,000) for a system programmer who will manage technical/programming aspects of the Alert and Warning System not provided by the contractor. This position will include learning to operate the system, for an eventual transition to being operated entirely by OES staff, instead of outside vendors. Additional funding, ($135,000) will be provided for the program, $90,000 of which pays the vendor for maintenance and operation of the system.

    Staff Comments: The impetus for moving the Alert and Warning System in-house is unclear. With a vendor-operated system, the state benefits from industry advancements and code updates applied to the system. If the current system is moved in-house, and operated by one person, it becomes a legacy system that is not continually updated and eventually not technologically supported.

    Staff Recommendation: Deny the request. The OES should redirect resources to continue $90,000 contract with vendor to maintain and operate the system.

17. **Coastal Region Office Relocation (BCP #6).** The OES requests $32,000 General Fund in fiscal year 2008-09 and $834,000 in 2009-10 to relocate the Coastal Region Branch Office out of downtown Oakland to another site. The Coastal Region Branch Office is one of the three regional offices that coordinate services and resources to support local governments during emergencies.

The OES has cited the following facility limitations as justification to move to a new location: 1) lack of available parking for equipment, 2) lack of available parking for staff in the event of an emergency, 3) cabling and communication line work must be completed by Lessor's vendor, 4) difficulty accessing the roof, and basement, and 5) inability to accommodate anticipated growth.

The $32,000 General Fund 2008-09 funding will be used to find another facility.

Staff Comments: It is unclear how to determine the actual cost of this project (including equipment purchases, moving costs, lease cost, etc.) without having the OES having a specific site in mind. The OES asserts that the new location must meet a variety of unique needs, but has not yet found an appropriate space. The current lease is set to expire July 31, 2008, and the OES is in the process of renegotiating its lease for 2 years.

Staff Recommendation: Deny the request.

18. **Headquarters Facilities Maintenance Increase (BCP #8).** The OES requests $198,000 General Fund - $41,000 increased baseline to account for increased headquarters operation costs, and $157,000 in one-time equipment expenses:
    - $90,000 Emergency power for all of Building A (currently only available in parts of the building)
    - $30,000 Dedicated A/C unit for Warning Center
    - $25,000 Dedicated A/C unit for IT server room
    - $12,000 Dedicated man-lift to change light bulbs throughout the facility

Staff Comments: OES requests a dedicated A/C unit is needed for the IT server room to keep the equipment from overheating and failing. The Warning Center A/C unit is requested to make the room more comfortable for staff working after hours, and to avoid the inefficiency of running the entire first floor A/C when staff is only present in the Warning Center (which operates 24 hours a day). The $41,000 increased baseline is primarily for the rising cost of utilities and building maintenance. While emergency power for all of Building A is ideal, there is no indication that its absence has had an impact on the OES's ability to coordinate or respond to emergencies. A dedicated Warning Center A/C unit is not essential for maintaining the Warning Center, and it is not clear that the inefficiency of running the first floor A/C after hours (on the days employee comfort requires it) is enough of an expense to off-set a $30,000 A/C unit this fiscal year.

Staff Recommendation: Approve only $25,000 for IT server room A/C unit. Deny remainder of requests totaling $173,000. The OES has indicated that the IT server room gets dangerously hot for the essential computer/server equipment integral to the response and operations functioning. Risking the functionality of this equipment would be imprudent as it directly impacts public safety during an emergency and replacing the equipment would be an even larger financial burden.

19. **California Energy Council Report - Outside Contract (BCP #9).** The OES requests $600,000 General Fund of ongoing funding to hire outside consultants to prepare the California Energy Council's biennial report required by AB1889. The report to the Legislature identifies gaps in emergency preparedness efforts and evaluates response strategies used in the past two years.

    Staff Comments: The need for external consultants to prepare the report, due to workload or expertise, is unclear. This proposal was submitted during the 2007-08 budget process and was not approved. In 2007-08, the LAO found no reason to believe that existing OES staff could not prepare this report, and recommended against funding this request.

    Staff Recommendation: Deny the request, in light of other pressing General Fund needs.

20. **Wildland Firefighting (BCP #11).** The OES requests $10.2 million in 2008-09 and $9.7 million ongoing Insurance Fund dollars to pay for fire engine replacements and upgrades, as well as additional firefighters. Under this change, fire engines throughout the state would be staffed by 4 firefighters per engine, rather than 3, at all times.
    - $1,089,000 Six positions to manage current fleet
    - $424,000 Increased maintenance costs for current fleet
    - $54,000 Increased fuel costs for current fleet
    - $8.6 million Five positions and 131 new fire engines

    Staff Comments: The source of funding for this proposal is predicated on the Department of Insurance imposing on insurers an annual assessment of 1.25 percent of the premium for each commercial and residential multi-peril insurance policy. On a premium base of $10.5 billion, the proposed assessment would generate approximately $109 million in 2008-09 and an estimated $125 million annually thereafter. Under the Governor's budget proposals: (1) $77.6 million would be for CALFIRE staff, activities and equipment; (2) $9.2 million for Military Department staff and equipment; (3) $1.9 million to OES to supplant baseline GF supporting the Mutual Aid Response program; and (4) $10.2 million for this BCP.

    On January 29, the Full Committee heard this issue and raised numerous concerns with the viability of the funding proposal. In addition, the Department of Insurance in a letter to the Chair of the Full Committee cited constitutional, implementation, and mandatory sharing of non-individual risks issues with the funding proposal.

Staff Recommendation: Deny the request without prejudice, due to the lack of a stable funding mechanism. The subcommittee should revisit this issue if the OES can provide an alternative, non-GF funding source.

21. **California Multi-jurisdictional Methamphetamine Enforcement Teams (Cal-MMET) (BCP #15).** The OES requests $20.1 million ongoing General Fund to permanently continue the Cal-MMET Program. Originally funded with $9.5 million, to serve 6 high-need counties in 2001, this program was expanded to its current scope of 41 counties in 2005-06.

The War on Methamphetamine Program funds local anti-drug task forces to combat methamphetamine production and distribution, with specific strategies determined by local sheriffs' departments. Funding has been used to provide search warrant assistance, undercover agents, expert testimony, community training, etc.

LAO Recommendation: Do not extend the $20.1 million increase, and reduce the base funding ($9.5 million) by 25%. The LAO also recommends making the grants *competitive*. The LAO raised concerns about the lack of a comprehensive evaluation and the effectiveness of the program. The LAO has indicated that much of the methamphetamine production has moved to Mexico, as well, reducing the prevalence of labs in California. The LAO also considers Cal-MMET Program to be duplicate funding to that permanently appropriated to CALMS for the same purpose.

Staff Comments: A final report on the success of the program expansion will not be submitted to the Legislature until October 2008, and the preliminary report lacked substance and quantifiable benchmarks. Other issues to consider include:

- The comparison data of 2005-06 (before the expansion) and 2006-07 is not sufficiently disaggregated to be meaningful.
- The comparison data is incomplete. According to the OES staff, the numbers reported are a reflection of the number of arrests and seizures they attribute to the extra funding, which is utilized differently in each county and not easily separated out from other law enforcement money. Additionally, without a county-by-county comparison, it is unclear if certain counties or methamphetamine combat strategies have been more effective than others.
- This program has the same purpose to, and employs similar strategies as, the Department of Justice's CALMS program. The difference is that CALMS uses state employed agents and law enforcement to staff task forces, instead of funding locals to create their own. The October report is supposed to be an evaluation of both programs.

Staff Recommendation: Hold open, pending the outcome of the Subcommittee discussion on the broader topic of local government subventions.

22. **Parole Revocation Victim Advocacy Program (BCP # 16).** The OES requests 1 position and $1.1 million from the Victim/Witness Assistance Fund to permanently continue this program (currently a two-year pilot), which supports victim/witnesses during parole revocation proceedings.

    $100,000 funds 1 Criminal Justice Specialist to administer $1 million in local assistance funds. Local assistance funds operate 8 centers statewide, and provide restraining order services, assistance with compensation paperwork, counseling and referral services, escorts during court hearings, etc.

    Staff Comments: This program has not been evaluated, and it is unclear whether accountability systems exist. With upwards of 40,000 parole revocation hearings annually, the proposal provides two anecdotes about services victim/witnesses have received, but provides no data about how many victim/witnesses are being served and in what ways.

    Staff Recommendation: Deny the request.

23. **Internet Crimes Against Children (ICAC) Program (BCP #19).** The OES requests $1 million payable from the Restitution Fund to continue, on a permanent basis, funding for the ICAC Program. ICAC is a local assistance grant program focused on the investigation and prosecution of crimes committed against children involving the Internet. Proposed ongoing funding would support existing ICAC task forces in San Diego, Los Angeles, San Jose, and Sacramento.

    Staff Comments: On April 10, the Subcommittee raised concerns about the long-term solvency of the Restitution Fund and the appropriate uses of these funds. For future action, the OES should investigate available federal funding.

    Staff Recommendation: Deny the request.

24. **Office of Gang and Youth Violence Policy (BCP #28).** The OES requests $1,278,000 General Fund and 7 positions to carry out the provisions of AB 1381 (Chapter 459, Statutes of 2007) which established the Office of Gang and Youth Violence Policy (OGYVP). AB 1381 specifies that the OGYVP shall be responsible for identifying and evaluating state, local, and federal gang and youth violence suppression, intervention, and prevention programs and strategies, along with funding for those efforts. The director shall be responsible for monitoring, assessing, and coordinating the state's programs, strategies, and funding that address gang and youth violence in a manner that maximizes the effectiveness and coordination of those programs, strategies, and resources. This proposal provides staff and start up costs for the OGYVP.

Background. The 2007 Budget Act appropriated $446,000 GF to establish a statewide Anti-gang Coordinator. In addition, the 2007 Budget Act contained $9.5 million Restitution Fund, for grants (with a dollar-for-dollar match requirement) to cities and community-based organizations to assist in addressing gang issues. Budget Bill language allows DOF to transfer up to 3-percent of the funds appropriated (in this case approximately $285,000) for administration of the grant programs.

Staff Comments: In early January 2008, the Governor and the Leadership of the Legislature met to discuss ways to reduce overall GF expenditures in light to the fiscal condition of the state. One option was deferring the implementation of recently enacted legislation. In mid-January, the Chair of the Budget Committee, with the concurrence of the Vice-Chair, directed the subcommittees to begin examining the funding of all newly enacted statutes.

Staff Recommendation: Deny the request. The denial of the BCP will leave intact the existing 2007 level of funding for the Anti-gang Coordinator, as well as the ability to utilize up to $285,000 to administer the anti-gang grant program.

25. **Administrative Positions (BCP #36)**. The OES requests that $377,000 be diverted from other OES positions to fund a Deputy Director of Communications and a Senior Advisor to the Chief Deputy Director. This proposal uses existing OES funding.

Comments: The proposal to redirect funding in order to establish two high-level administrative positions does not appear to be a technical correction as described in the summary of the BCP. This BCP was ranked as one of the lowest priorities for the OES. If OES does in fact have available General Fund support, it should be redirected to other, higher priority, areas.

Staff Recommendation: Deny the request.

8860 Department of Finance

The Department of Finance is responsible for advising the Governor on fiscal matters, preparing the annual executive budget, evaluating the operation of state government, and developing economic and demographic information. In addition, the department oversees the operation of the state's accounting and fiscal reporting system. The Office of State Audits and Evaluations assesses the operation of the state's programs. Finally, the Office of Technology, Review, Oversight, and Security serves as information technology project fiscal review unit.

The Governor's budget proposes expenditures of $50.1 million ($30.4 million General Fund and $19.7 million in reimbursements) to support the activities of DOF in 2008-09.

This is a decrease of $5.8 million, or 9.6 percent, below estimated current-year expenditures. The decrease is due primarily to the transfer of the FI$Cal IT project to its own budget item (Item 8880), the proposed Budget Balancing Reduction (10% reduction) of $3.4 million; and adjustments due to one-time funding in the current year.

The following item has been recommended for consent / vote only.

1. **Business, Transportation and Housing Budget Unit two-year limited term position (BCP# 3).** The DOF is requesting $119,000 from Proposition 1B bond funds for a two-year limited term position. As part of a 2007 Budget, $950 million in local streets and roads bond funding was appropriated (Phase 1); statute specifies that cities and counties submit project descriptions to the DOF. The DOF is required to approve the projects for completeness and report monthly to the State Controller on local entities eligible to receive allocations from Proposition 1B. In the current year, the DOF administratively established a position to begin the process, instructions and spreadsheets in order for cities and counties to apply for bond funding.

<u>DISCUSSION / VOTE ISSUES</u>

2. **Mandates Unit (BCP #1).** The budget requests $468,000 General Fund and 4 positions to permanently establish the mandates unit within the DOF. In 2006-07, the Legislature supported the establishment of a mandates unit within DOF, on a two-year limited-term, to address and coordinate local government (non-school related) mandate activities and develop, examine, investigate / evaluate, and implement policies and procedures to be used to reform the reimbursable mandates process and create methods to conduct activities required of DOF.

   Staff Comment:
   The current mandates unit has achieved success in participating in all phases of the Commission on State Mandates process in order to reduce the test claims backlog and make timely comments at Commission hearings – thereby reducing GF cost exposure. <u>The Subcommittee may want to hear how the Mandate Unit will (1) assist the Legislature in determining costs when legislation has been identified as having local mandate implications; and (2) as more of the Commission's test claim backlog is related to education mandates, how will this unit assist with these?</u>

   By providing timely comments at Commission hearings this unit has eliminated the need for extensions of hearings, as well as assisting in the creation of alternative costing methods agreeable to local governments (AB 1222), there are benefits over the long run.

   Staff Recommendation: Approve this request.

3. **Staff for Estimate Process (BCP #5).** The DOF requests $228,000 GF and one Principal Program Budget Analyst and a part-time retired annuitant to ensure the quality of analyses of the estimates in the Health and Human Services unit. One full-time position would work to improve unit training on estimates, constitute a permanent resource for unit staff, and provide greater attention to estimate issues during peak periods. The second position would serve seasonally to provide additional expertise and assistance during compressed review periods. The positions would be established on a three-year limited term basis.

   Estimates are submitted by the departments to DOF twice annually, once in the Fall and once again in the Spring. The Estimates package contains adjustments to enrollment and caseload, and also significant policy changes.

   Staff Comment:
   At present, the Health and Human Services unit at DOF has 21 analyst level or higher personnel. It would seem prudent for DOF to redirect existing personnel in the short-term to assist in the enhancing the Estimate process with other departments.

   Staff Recommendation: Deny the request.

4. **Change in Submission of May Revision.** The DOF is proposing budget trailer bill language that would change the date May Revision is provided to the Legislature, from May 14 to May 21. May Revision provides an updated estimate of GF revenues, any proposals to reduce expenditures, or changes to reflect caseload enrollment or population changes. DOF indicates that it would get better quality information and analysis with the additional week.

   Staff Comment: The date change in the submission of May Revision was done through a collaborative process between the administration and Legislature. It is difficult to discern what a date change such as this would mean to the Legislative calendar and the ability for the Legislature to insure a thorough and timely analysis of the May Revision. In a year where major budgetary and policy changes are being proposed by the administration, it would seem that a proposal such as this should be examined in a less contentious environment.

   Staff Recommendation: Deny the request.

5. **Change in the Approval of Out-of-State Travel (OST)**. The DOF is requesting trailer bill language that releases them from reviewing OST requests by departments. Under current law, both the Governor's office and DOF review such requests. In this instance, DOF typically makes sure any OST request is not in excess of total requested OST schedules submitted by departments in the beginning of each fiscal year.

   Staff Comments: DOF indicates this proposal is part of evaluating overall workload and eliminating, from their perspective, items of lesser value. One problem is it is unclear if this too will be a low-priority area for administrative oversight by the

Governor's office, since that office (at a future hearing) is also slated for a budget reduction. From an administrative perspective, this proposal would not seem to be prudent.

Staff Recommendation: Deny the request.

8880 Financial Information System for California (FI$Cal)

The Financial Information System for California (FI$Cal), is a "Next Generation" information technology (IT) project. The purpose of this project is 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 management, project accounting, and human resources management.

Fi$Cal will be a single Enterprise Resource Planning (ERP) system, a set of software applications that will integrate and streamline the aforementioned business processes. Aging legacy systems, inefficient "shadow" systems, and duplicate processes have been identified throughout the state's departments and agencies, and Fi$Cal is the multi-agency project proposed to solve these system failures. Fi$Cal will be rolled out in 5 "Waves", over a multi-year period, to more than 100 departments and agencies. Fi$Cal will be managed by a partnership of the Department of Finance (DOF), the State Treasurer's Office (STO), the State Controller's Office (SCO), and the Department of General Services (DGS).

The Fi$Cal project was proposed during the 2007-08 budget process as an entirely General Fund project. However, due to a number of factors including General Fund expense, the Legislature requested more information on alternative funding scenarios, vendor accountability, and formalization of control agency roles.

<u>Governor's Budget Proposal</u>

The 2008-09 Budget proposes to proceed with statewide implementation of Fi$Cal over 8 years, with a total cost of $1.6 billion paid over 10 years (See attachment). Proposed funding is $40.1 million ($2.4 million General Fund, and $37.7 million special funds) for 98 positions.

The funding beyond 2008-09 for this multi-year project would come from a combination of Bond Anticipation Notes (BANs) and Certificates of Participation (COPs). Issuing BANS, which are short term bonds collecting capitalized interest, would fully fund Fi$Cal through 2011-2012. In 2012, state departments and agencies benefiting from Fi$Cal would begin to "purchase" COPs out of their appropriated budgets, effectively beginning to pay for the use of Fi$Cal (paying off the BANs and funding ongoing costs). Every state department/agency will purchase some amount of COPs that support the initial system development, and departments that will transition to the new system in "Wave 1" will pay an additional share.

Allocations to project costs will be determined annually, based on total departmental expenditures. At the end of each year, actual departmental use will be determined and allocations accordingly re-determined. Departments are expected to pay their shares of the project's costs using their departmental/agency funding sources (i.e. General Fund, and various special funds) in the ratio they are received.

<u>LAO Alternative</u>

The LAO concluded that the benefits of proceeding with Fi$Cal outweigh the benefits of canceling the program altogether, but identified it as a "close call." The LAO offers an alternative which provides for greater legislative review, lower initial costs, and less reliance on borrowing. The alternative extends the Fi$Cal timeline by one year, and the cost by approximately $67 million over the life of the project. Key components in the LAO's recommendation include:

- ✓ **Adjust the Schedule.** In order to facilitate legislative review and oversight, the project schedule should be adjusted so that the report on the status of Wave 1 implementation would be presented to the Legislature no later than March 1 after implementation.

- ✓ **Pause for Legislative Approval.** Rather than the 30-day review period provided in the administration's plan, we recommend that the Legislature decide whether to proceed with full implementation during the regular budget process or through separate legislation. Unlike the administration's proposal, the project would not proceed with activities to prepare additional departments for system installation until the Legislature has reviewed the report and decided to continue the project. The advantage of this approach is twofold, (1) the Legislature has time to conduct a full inquiry about the project status and, (2) departments that will be implemented in the second phase of the project are not spending project implementation funds until the Legislature has approved the project to continue.

  This approach will add a year to the total project schedule because subsequent departments would not begin their one-year preparation until after the Legislature's review. LAO's estimate is that over the ten-year schedule, this will increase project cost by approximately $67 million, (about $20 million in 2008-09 dollars) compared to the administration's estimates.

- ✓ **Limit Borrowing During the Initial Phase of Development.** The LAO estimates the total cost of the first four years of their alternative through Wave 1 implementation to be $461 million. The LAO indicates given the state's fiscal situation and the need to update the state's financial systems, a reasonable case can be made to borrow during 2008-09 and 2009-10. However, beginning in 2010-11, the LAO believes it makes sense to use a more balanced approach—a combination of additional bond financing and pay-as-you-go appropriations. Bond authority of $250 million represents about 55 percent of estimated Wave 1 project costs. This financing approach will allow adequate time for the administration to set budget priorities that could substantially reduce or even eliminate further borrowing. The Legislature could revisit the issue of additional bond financing, if and when it decides to authorize the remainder of statewide implementation.

✓ **Expenditure of Bond Proceeds Subject to Appropriation*.*** In order to increase legislative oversight of funding, we recommend requiring the administration to obtain annual budget act authority to expend bond proceeds.

Staff Comments: Implementation of a project of this magnitude is unprecedented. The LAO alternative provides for more thoughtful legislative oversight, and more time after Wave 1 implementation to evaluate functionality and "lessons learned" before Wave 2.

In discussions with the LAO and Fi$Cal project staff, questions arose about the timeline and expense of the LAO alternative. Fi$Cal program staff believes that the LAO alternative will add two years (instead of one) to the project, because Wave 2 preparations (not simply implementation) will be halted pending review.

Staff Recommendation: The LAO alternative provides more points of legislative oversight and review, as well as appropriate safeguards. Over the lifespan of the project, the additional cost is relatively small, and will potentially prevent the risk of more expensive mistakes by thorough review. Staff recommends that the LAO, in consultation with the Department of Finance, make the appropriate changes in any proposed budget and trailer bill language consistent with the LAO recommendations.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Tom Harman
Senator Christine Kehoe

Monday, April 21, 2008
10:00 a.m.
Room 3191

"B" Agenda

Hearing Outcomes

Note: Senator Harman was absent from the room when the votes on this agenda were taken, so the 2 – 0 votes reflect "aye" votes from Senator Machado and Senator Kehoe.

Item Number and Title **Page**

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

Items Proposed for Vote-only

2310	Office of Real Estate Appraisers
Control Section 1.00	Budget Act Citation
Control Section 1.50	Intent and Format
Control Section 4.30	Lease-Revenue Payment Adjustments
Control Section 4.80	State Public Works Board Interim Financing
Control Section 4.90	Architectural Revolving Fund Transfer
Control Section 4.95	Inmate Construction Revolving Account Transfer
Control Section 6.00	Project Alterations Limits
Control Section 8.00	Anti-Terrorism Federal Reimbursements
Control Section 9.20	Administrative Costs Associated With the Acquisition of Property
Control Section 9.50	Minor Capital Outlay Projects
Control Section 12.30	Special Fund for Economic Uncertainties
Control Section 25.50	SCO Apportionment Payment System Assessments
Control Section 28.00	Program Change Notification
Control Section 28.50	Agency Reimbursement Payments
Control Section 34.00	Constitutional Severability
Control Section 37.00	Urgency Clause

Action: All items on the Vote-Only calendar were approved on a 2–0 vote.

Items Proposed for Discussion

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing (DFEH) is to protect people from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence.

The Governor's Budget begins by funding 240.2 positions (including no new positions) and budget expenditures of $24.5 million (including $18.7 million General Fund) for the DFEH, but then includes a 10-percent, across-the-board General Fund (GF) reduction (Budget-Balancing Reduction–BBR) of approximately $2.0 million (see the Discussion Item below).

VOTE-ONLY ITEM:

BCP-1: Increased Facility Rental Costs. The DFEH requests $376,000 GF to cover the increased rent for its Southern California district offices.

Staff Comment: The DFEH currently has four separate district offices located in one building in downtown Los Angeles; however, the lease on this space expired in April 2007. The Legislature approved one-time moving costs of $400,000 for FY 2007-08 to enable the DFEH to decentralize those offices in order to better meet the needs (including accessibility) of the citizenry throughout the current 24,000-square mile service area. Staff notes that the department will pay significantly less to locate two of the district offices outside of downtown Los Angeles (in South Bay and Pomona), although rental rates throughout the region have increased significantly since the current lease was executed in 1996.

STAFF RECOMMENDATION ON VOTE-ONLY ITEM: APPROVE AS BUDGETED.

Action: Approved as budgeted on a 2-0 vote.

DISCUSSION ITEM:

BBR: Administration of Civil Rights Law—Delay Processing of Employment and Housing Complaints. The Governor proposes a reduction of $2.0 million GF and 18.0 positions to this program, which is responsible for protecting the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

Staff Comment: The DFEH has one year from the date of filing to investigate cases, and if this timeline is not met the case "expires" and claimants lose their right to an administrative remedy and are forced into the court system. The department currently receives approximately 16,000 to 17,000 cases per year, and the elimination of 18.0

positions (8.0 investigative consultants out of a current total of 107.0, and 10.0 administrative and managerial staff) is expected to result in a backlog of discrimination cases and the inability to investigate over 740 cases within statutory timeframes. The DFEH indicates that the backlog would occur primarily as a result of the loss of 10.0 "frontline" positions directly related to casework (including the 8.0 investigate consultants and 2.0 administrative/managerial staff).

Under more extensive budget reductions in the early 2000's, the loss of DFEH investigative staff led to 94 expired cases in 2002-03 and 189 expired cases in 2003-04. More recently, the DFEH experienced 197 expired cases in FY 2006-07 and anticipates 194 expired cases in the current fiscal year despite the approval of 30.0 positions and $3.4 million GF over the past two years to improve enforcement. Staff notes that, on average, the cost of the entire DFEH administrative process for one case is roughly equivalent to one day in court. Thus, each case that the DFEH is able to effectively settle represents a potential GF savings (cost avoidance) because that case might otherwise have gone to court.

In addition to the GF reduction, the DFEH indicates this proposal would result in the loss of between $100,000 and $500,000 in federal funds. This estimate is based on existing workshare agreements with the federal Housing and Urban Development (HUD), and U.S. Equal Employment Opportunity Commission (EEOC). Cases are often dual filed with DFEH and HUD or EEOC. For those cases, the DFEH is reimbursed $540 for each employment case and $2,400 for each housing case that is investigated within the federal timeframe.

According to the DFEH, the above estimates of expired cases and reduced federal funds do not assume any increase in claims that might result from the current turmoil in the housing and job markets. Staff notes that even without assuming any increase in claims, the subcommittee will need to consider: (1) whether the adverse affect on the protection of civil rights is worth the proposed savings, particularly in tough economic times; and (2) whether the state would actually realize any GF savings in the long-run since the reduction could result in higher costs to the GF-supported courts system. The subcommittee may wish to consider an intermediate approach that would include eliminating 8.0 of the "non-frontline" positions contained in the Governor's proposal, while restoring the staff directly related to case processing.

Staff Recommendation: APPROVE the reduction of 8.0 positions and $1.0 million GF, and RESTORE 10.0 positions and $944,000 GF.

Action: Approved the staff recommendation on a 2-0 vote.

1705 Fair Employment and Housing Commission

The Fair Employment and Housing Commission (FEHC) is a quasi-judicial body responsible for the promotion and enforcement of the state's civil rights laws concerning discrimination in employment, housing, public accommodations, family, medical and pregnancy disability leave, hate violence and threats of violence. The seven members of the Commission are appointed by the Governor and confirmed by the Senate.

The Governor's Budget begins by funding 7.0 positions (including no new positions) and budget expenditures of $1.3 million (including $1.2 million GF) for the FEHC, but then includes a 10-percent, across-the-board GF reduction (BBR) of $117,000 (see the Discussion Item below).

DISCUSSION ITEM:

BBR: Case Adjudication—Eliminate Hearing Officer. The Governor proposes a reduction of $117,000 GF to this program, which adjudicates cases brought before it by the DFEH, promulgates regulations that interpret the Fair Employment and Housing Act, sponsors and analyzes legislation on civil rights issues, provides technical assistance to the Governor and the Legislature, and provides education and outreach to encourage compliance with fair employment and housing laws.

Staff Comment: Of the roughly 16,000 to 17,000 cases received by the DFEH annually, approximately 100 "accusations" are referred to the FEHC. According to the FEHC, the proposed elimination of 1.0 Hearing Officer (out of a current total of 3.0) would compromise its administrative hearing program, which includes mediation and settlement conferences that frequently provide a less costly alternative to an adversarial hearing. Staff notes that when these alternative methods are not successful, the Hearing Officer cannot preside over the actual hearing because they have been privy to information that may or may not be accepted into the hearing. This means that with only 2.0 full-time Hearing Officers, the FEHC would have no flexibility as to who can hear the cases.

The FEHC indicates that there is currently no case backlog.

Staff Recommendation: APPROVE the reduction.

Action: Approved the reduction on a 2-0 vote.

2240 Department of Housing and Community Development

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

The Governor's Budget begins by funding 659.2 positions (including 54.0 new positions) and budget expenditures of $1.1 billion (including $16.0 million GF) for the department, but then includes a 10-percent, across-the-board GF reductions (BBRs) totaling approximately $1.3 million. The individual BBRs are as follows:

Program	**General Fund***	**Personnel Years (PYs)**
State Housing Law	-$64	-0.3
Employee Housing	-$85	-0.6
Community Development Block Grant	-$52	-0.8
Emergency Housing Assistance Program	-$401	--
Office of Migrant Services (Local Assistance)	-$343	--
Enterprise Zones	-$59	-0.5
Housing Element, Issues, and Reporting	-$163	-0.9
Administration and Program Support	-$85	--
TOTALS	-$1,252	-3.1

(*dollars in thousands)

As illustrated in the table below, the net effect of the Governor's proposals would be a 19.0 percent decrease in total funds from adjusted Fiscal Year 2007-08 totals, primarily as a result of reduced bond award amounts, but including approximately $1.3 million less in GF.

	Total Funds*	**General Fund***
Adjusted 2007-08 Budget	$1,303,515	($15,654)
2008-09 Base Budget	$1,057,032	($15,951)
Proposed Budget-Balancing Reductions	-$1,252	(-$1,252)
GOVERNOR'S REVISED 2008-09 TOTALS	$1,055,780	($14,699)
Change—Year Over Year	-19.0%	-7.9%

(*dollars in thousands)

The majority of the HCD's expenditures are supported by general obligation bond revenue. The budget includes approximately $37.0 million in funding from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) – down by approximately $49.0 million from 2006-07 due to the exhaustion of the bond funds. The budget also includes approximately $771.0 million (excluding administrative costs) from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Portions of Prop 1C funds are continuously appropriated, and the HCD is using this existing authority to expend $973.0 million in Prop 1C funds in FY 2007-08.

The second largest revenue source is federal funds, estimated at $174.5 million in 2008-09, which is about the same as 2007-08. Remaining expenditures of about $77 million are covered by the GF ($14.7 million), fees, and other miscellaneous revenues.

VOTE-ONLY ITEMS:

1. BBR: Employee Housing. The Governor proposes a reduction of $85,000 GF and 0.6 positions to this program, which is responsible for adoption and enforcement of statewide regulations for construction, maintenance, use, and occupancy of privately owned and operated employee housing facilities that provide housing for five or more employees.

Staff Comment: According to the HCD, this reduction would result in less frequent inspections, but would not significantly threaten life or health.

2. BBR: Community Development Block Grant (CDBG). The Governor proposes a reduction of $52,000 GF and 0.8 positions to this program, which provides CDBG program benefits to non-entitlement cities and counties (counties with fewer than 200,000 residents in unincorporated areas and cities with fewer than 50,000 residents that are not participants in the United States Department of Housing and Urban Development CDBG entitlement program).

Staff Comment: The CDBG Program is designed to create or retain jobs for low-income workers in rural areas by providing grants of up to $2.5 million for eligible cities and counties to lend to identified businesses, or use for infrastructure improvements necessary to accommodate the creation, expansion, or retention of identified businesses. According to the HCD, this reduction would result in a loss of $52,000 in matching federal funds (for a total program reduction of $104,000), and would reduce the department's ability to meet compliance workload demands.

3. BBR: Enterprise Zone Program. The Governor proposes a reduction of $59,000 GF and 0.5 positions to this program, which offers benefits (including tax credits) to employers that locate or expand within economic development areas.

Staff Comment: According to the HCD, this proposal would result in a reduction to marketing and outreach efforts to inform employers about the program. Staff notes that the Legislature approved a one-time reduction of $50,000 GF to this program in the special session.

4. BBR: Administration and Program Support. The Governor proposes a reduction of $85,000 GF to this program, which provides fiscal, human resources, and other support services for each of the other HCD programs.

Staff Comment: According to the HCD this reduction would be spread across the various administrative functions and would diminish the quality of the support to the department's core programs, thus, indirectly reducing the level of services the HCD provides to its stakeholders.

5. BCP-7: HOME Investment Partnerships Program (HOME) Workload. The HCD requests 4.0 positions and $448,000 (federal funds) for the long-term monitoring of projects and the servicing of loans due to the increase in the HOME housing portfolio.

Staff Comment: The HCD indicates that the HOME Program is currently noncompliant with federal regulations that require long-term monitoring of HOME projects through the full 15-year period of affordability for first-time homebuyers. According to the HCD, by enabling proper monitoring of projects and servicing of loans, the requested positions would not only allow the state to comply with federal requirements, but would ensure that rents are kept as low as possible; apartments are maintained in decent, safe, and sanitary conditions; and that tenant incomes are verified for eligibility purposes.

6. BCP-9: Occupational Licensing Services—Position Conversion. The HCD proposes to convert a temporary help position to a permanent, full-time budgeted position in the Occupational Licensing (OL) Program's Field Investigations Unit to aid in the timely investigations of consumer complaints and help reduce the current two-year backlog. The HCD requests no additional funding authority and will pay for the position out of existing resources ($104,000 special fund).

Staff Comments: The OL Program licenses and regulates manufacturers, dealers, distributors, and salespersons of manufactured homes, multi-unit manufactured homes and commercial modular units, and is authorized to investigate and prosecute unfair competition and statutory violations in the manufactured home industry. Thus, the OL Program protects consumers against unlicensed sales, fraud, misrepresentation, illegal, unfair, or fraudulent sales practices, and noncompliance with statutory warranty requirements.

Due to the high priority of the workload identified, the HCD has already administratively established the requested position in the current fiscal year using funds that would otherwise have been expended on equipment, training, travel, or other program costs deemed to be lower priorities. Staff notes that the OL Program is supported by fees for various OL Program services. Additionally, staff notes that the HCD workload analysis presents a justification for staff beyond the 1.0 position requested, but funding is currently insufficient to support all of these positions.

7. BCP-10: Extension of Liquidation Period for the Building Equity and Growth in Neighborhoods Program (BEGIN—Proposition 46). The HCD requests authority to extend the term of contract liquidation for Proposition 46 BEGIN Program prior awards.

This would allow project sponsors time, as provided for in the executed contract, to submit invoices for payment/reimbursement.

Staff Comments: Current budget language permits only two years for liquidation, while the HCD has found that many projects require approximately four years. According to the HCD, approximately $7.3 million in BEGIN funds (awarded to 17 projects in support of 434 units) appropriated in the Budget Act of 2005 are expected to be unspent at the end of the current fiscal year. In the absence of the requested change, these projects (and projects like them in the future) would lose these funds after June 30, 2008. Staff notes that this request is consistent with actions taken by the Legislature last year (to extend the liquidation period) with regard to certain Local Assistance items.

8. BCP-17: Multifamily Housing Program (MHP) Senior Set Aside—AB 927 Implementation. The HCD requests 1.0 two-year limited-term position and $111,000 (special fund) to implement a new senior-restricted housing component of the MHP, as authorized by Chapter 618, Statutes of 2007 (AB 927).

Staff Comments: AB 927 required that the percentage of MHP funding that goes to senior citizens must be equal to the senior citizen population in the target income group for the MHP program (lower income households) as reported by the federal Department of Housing and Urban Development. Thus, this request would help ensure that low income senior citizens are able to obtain affordable housing.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

Action: Approved as budgeted on a 2-0 vote.

DISCUSSION ITEMS:

1. BBR: State Housing Law. The Governor proposes a reduction of $64,000 GF and 0.3 positions to this program, which is responsible for promulgation of revisions to the state's building codes for residential housing and currently has 3.5 positions.

Staff Comment: The purpose of the State Housing Law Program is to develop and implement new and existing residential building and housing codes in California. The California Building Code is updated every three years and requires the HCD to review national "model" building codes, determine necessary amendments for California, and propose them to the California Building Standards Commission (BSC).

The HCD indicates this proposal would reduce the department’s ability to monitor and then amend national building codes into California building codes, which could result in California builders being required to follow codes that are inconsistent with national standards. This could result in more costly housing construction. Staff notes that the Legislature approved a one-time reduction of $50,000 GF to this program in the special session.

Staff additionally notes that Item 2 (below) would add positions to this division for the purpose of developing building standards regarding water conservation and reuse as directed by recently adopted legislation.

Staff Recommendation: APPROVE the reduction.

Action: Approved the reduction on a 2-0 vote.

2. BCP-15: State Housing Law—AB 1406 & AB 1560 Implementation (Water Efficiency and Conservation). The HCD requests 1.0 two-year limited-term position and $117,000 GF to develop codes and standards for use of recycled water in condominiums for toilet and urinal flushing (Chapter 537, Statutes of 2007—AB 1406) and water efficiency and conservation in new residential and non-residential buildings (Chapter 532, Statutes of 2007—AB 1560).

Staff Comment: Staff notes that the legislative analyses for AB 1405 and AB 1560 noted zero or negligible costs for the HCD. Additionally, the subcommittee is generally denying any augmentation to implement new or recent legislation unless the funding would protect life and safety or produce offsetting revenues or savings. While AB 1406 and AB 1560 clearly reflect the priorities of the Legislature and the Governor to move toward more sustainable/"green" building practices, and while they may result in long-term benefits or savings to the state, staff notes that this request does not appear to meet the subcommittee's criteria and, therefore, this proposal would be a candidate for denial without prejudice. However, should the subcommittee wish to give fuller consideration to this proposal, it may wish to consider the information below.

The HCD states that the existing 3.5 positions in the State Housing Law Program are not capable of meeting the existing demand to update the California Building Code, implement the two pieces of legislation cited, as well as work on current Green Building efforts of the Building Standards Commission (BSC).

The Legislature has made its desire to make "green building" the standard practice in California clear. Along with the two pieces of legislation mentioned here, the legislature also passed three green building bills in 2007 (relative to residential, commercial, and state buildings) that were vetoed by the Governor. Part of that veto message cited the existing efforts underway by the BSC, on which the HCD is collaborating.

As such, the subcommittee may wish to request further information from the department to ensure that the HCD, the BSC, and the other partners are moving in a direction consistent with the desires of the Legislature. The current efforts at the BSC are largely resulting in voluntary measures, and the Committee may wish to review the appropriateness of funding efforts to develop voluntary building codes that already exist in the private market.

Staff Recommendation: DENY the request without prejudice.

Action: Denied the request on a 2-0 vote.

3. BBR: Emergency Housing Assistance Program. The Governor proposes a reduction of $401,000 GF to this program, which helps to fund local homeless shelters, providing a portion of the funding for approximately 19,000 shelter spaces annually.

Staff Comment: According to the HCD, the state currently provides about 10 percent of the overall funding for local homeless shelters. Although the amounts awarded to shelters vary, on average this proposal would result in a 1-percent reduction in total funding for each of 19,000 shelter spaces.

Staff Recommendation: APPROVE the reduction.

Action: Held open. The Chair expressed the desire to try and bridge the gap in order to maintain current funding levels.

4. BBR: Office of Migrant Services (OMS). The Governor proposes an annualized reduction of $687,000 to the OMS program, which provides safe, decent, and affordable seasonal rental housing and support services for migrant farmworker families during the peak harvest season. The 2008-09 Governor's Budget assumes only $343,000 in savings in the Budget Year due to the lag time required to implement the reduction.

Staff Comment: The HCD originally estimated the state would need to shut down four to six of the 25 OMS Centers to achieve the budgeted savings; however, during the special session the HCD was able to eliminate state funding from one center (Firebaugh) while the locals kept the facility open utilizing reserve funds. This arrangement saved approximately $202,000 GF, but still requires the department to find an additional $141,000 in savings in the budget year. While the HCD hopes to find other centers with sufficient reserves to fund operations for the next year using less GF as was accomplished at Firebaugh, the additional reduction may require a 2-percent, across-the-board GF cut to all centers. The HCD does not currently anticipate the need to close any OMS centers over the next two growing seasons (through the end of FY 2008-09); however, the department cannot make an ironclad commitment on this account. Staff notes that the HCD is also working to get federal dollars to ease the demand on the state budget (see Item 5, below).

Staff Recommendation: HOLD OPEN.

Action: Held open to allow more time for the HCD to determine whether the targeted savings can be achieved without closing any OMS centers.

5. FL-3: OMS Federal Funding for Rehabilitation Projects. The HCD requests $1.8 million in federal fund authority in recognition of its intent to seek federal funding for projects at the various OMS centers.

Staff Comments: As discussed in Item 4 (above), the HCD operates 25 OMS centers (with approximately 1,800 units of housing) across the state and is responsible for their regular upkeep and maintenance as well as major repairs and rehabilitation. For going on 25 years, the HCD has regularly inspected the centers and carried out required repairs, rehabilitation, and reconstruction on a priority basis subject to fund availability.

While the HCD is nearing completion of a multi-year plan to reconstruct the oldest centers, the HCD indicates that OMS staff have identified rehabilitation projects and Americans with Disabilities Act (ADA) work, totaling $2.7 million, that is currently needed. The United States Department of Agriculture's Rural Development Agency has made available rehabilitation and repair funds for the OMS centers through a competitive Notice of Funding Availability, and the HCD plans to submit an application by mid-May for the aforementioned $2.7 million. The HCD anticipates the awards would be made in late-July or early-August and is requesting $1.8 million in additional federal fund authority based on the assumption that it will successfully compete for two-thirds of the requested dollars.

Due to the contingent nature of the requested funding, the subcommittee may wish to direct staff, the LAO, and the Administration to develop provisional language that makes the requested authority contingent upon approval of the federal funding.

Staff Recommendation: APPROVE the request with provisional language to be developed by staff, LAO, and the Administration.

Action: Approved the staff recommendation on a 2-0 vote.

6. BBR: Housing Element. The Governor proposes a reduction of $163,000 GF and 0.9 positions to this program, which provides for review and approval of local housing plans that are required as part of local general plans. In addition, some state housing bond programs require housing element compliance, or provide preference for compliance.

Staff Comment: For several decades, state law has required local governments to adopt a general plan that contains at least seven elements, including a housing element. By requiring local governments to adopt land-use plans and regulatory schemes that take into account the local housing need, the housing element is the state's primary market-based strategy to increase housing supply and choice. Although the HCD is required to review housing elements (which must be updated every five years) for compliance, the department does not possess a regulatory "hammer" to force compliance or punish non-compliance. As a result, the statewide compliance rate was well below 50 percent as recently as the early 1990s. However, compliance rates have improved due to increased technical assistance and resources provided by the HCD; a growing recognition by local governments of the importance of housing and an increased commitment to addressing the need; litigation against local governments by advocates for low-income families and individuals to compel compliance; and the use of state housing and bond funds to reward compliance (e.g., the BEGIN program; the Jobs and Housing Improvement Program and the Workforce Housing Program which provided local governments with discretionary grant funds for adopting a compliant housing element and approving housing). Currently, approximately 19 percent (or 102) of the 535 jurisdictions required to adopt a housing element are out of compliance.

As noted above, certain Prop 1C programs provide a monetary incentive for local governments to comply with housing element law, thereby increasing the demand for the HCD's services. However, in addition to this, a large number of jurisdictions have received extensions for updating their housing elements over the last few years and the

HCD anticipates those delayed submissions will be received soon. As result of this spike in workload, the proposed reduction could result in the department missing statutory review deadlines.

Staff notes that the State Housing Element Law BCP below (Item 7) would add 2.0 Prop 1C-funded limited-term positions, to this program. Should the subcommittee choose to approve both of these proposals, the HCD would net 1.0 new position for the State Housing Element Law Program, and would effectively shift the cost of 1.0 position from the General Fund to Prop 1C funds. While this option would provide GF relief in the short-term, the Legislature would still need to address the ongoing resource needs of the program in the future.

Staff additionally notes that the Legislature approved a one-time, current-year reduction of $100,000 GF to this program in the special session.

Staff Recommendation: APPROVE the reduction (in anticipation of accepting the staff recommendation to approve the State Housing Element Law BCP—Item 7).

Action: Approved the reduction on a 2-0 vote.

7. BCP-1: State Housing Element Law—Prop 1C Workload. The HCD requests 2.0 two-year limited-term positions and $222,000 (bond funds) to address increased workload in the Housing Element Law program resulting from the passage of Prop 1C.

Staff Comment: As mentioned above, some Prop 1C programs/grants, most notably the Infill Incentive Program (with $850 million in available funds), either require or prioritize projects that have an approved housing element. The HCD believes that, with the large amount of funds to be disbursed under Prop 1C, and based on the department's experience with the previous housing bond (Prop 46), it is reasonable to expect that many entities currently not in compliance with housing element law will be submitting housing elements for review. Based on an analysis of the Prop 46 historical workload, the HCD conservatively estimates that the Prop 1C housing element workload will require 2.0 additional positions.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

8. BCP-16: Updating of Housing Elements for Flood Hazards—AB 162 Implementation. The HCD requests 2.0 two-year limited-term positions and $226,000 (GF) to address the increased number and complexities of housing element reviews resulting from Chapter 369, Statutes of 2007 (AB 162).

Staff Comment: AB 162 requires the HCD, when acting as a Council of Governments, to consider flood hazards when evaluating available land suitable for urban development, and changes requirements in relation to housing elements and safety elements. This legislation also requires more updates to existing safety and housing elements, which, according to the HCD will create more review work for the department. Staff notes that the bill analysis for AB 162 identified no fiscal effect on the HCD.

As discussed in the corresponding BBR and BCP above (Items 6 & 7), the Governor proposes to reduce 1.0 position in the State Housing Element Program, but add 2.0 positions for Proposition 1C purposes. Together with this BCP, if all three requests are approved, the HCD would gain a net of 3.0 positions in the Housing Element Program.

As noted above in Item 2, the subcommittee is generally denying any augmentation to implement new or recent legislation unless the funding would protect life and safety or produce offsetting revenues or savings. Although the benefits of AB 162 may not be felt immediately, the subcommittee may wish to consider whether AB 162 would provide sufficient protection to life and property (in the case of a flood), to justify the requested GF resources. Staff notes that if housing is not sited in inappropriate locations, such as areas with flood hazards, the costs to address various health and safety problems are avoided. This could result in lower costs to the occupants/owners of housing since they would not be burdened with additional flood insurance costs. Should the subcommittee decide that these benefits are not sufficiently immediate to warrant the expenditure of scarce GF in the budget year, it should deny this request without prejudice.

Staff Recommendation: DENY the request without prejudice.

Action: Denied the request on a 2-0 vote.

9. Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Prop 1C provided for a general obligation bond issuance not to exceed $2.85 billion. The Governor proposes to award $771.0 million in Prop 1C revenues in 2008-09, on top of the $973.0 million estimated to be expended in the current fiscal year and $162.0 million awarded in FY 2006-07. Some Prop 1C programs are already continuously appropriated and other programs require a Budget Act appropriation to authorize expenditure. The Administration has submitted statutory language to implement one remaining Prop 1C program that was not activated in the current fiscal year (see Item 10, below). The chart below outlines proposed Prop 1C expenditures by category and indicates whether each program is administered by the HCD, or by the California Housing Finance Authority (CalHFA). Dollars are in thousands and 2007-08 and 2008-09 allocations exclude administrative costs.

Proposition 1C Category	2007-08 Allocations	2008-09 Allocations	Total Prop 1C	Approp Type	Budget
<u>Homeownership Programs</u>					
CalHome	$50,000	$50,000	$290,000	Continuous	HCD
CA Homeownership Program (BEGIN)	40,000	40,000	125,000	Budget Act	HCD
Self-Help Housing Program	3,000	3,000	10,000	Continuous	HCD
CA Homebuyers Down-payment Assistance Program	100,000	[30,000]	100,000	Continuous	CalHFA
Residential Development Loan Program	100,000	[30,000]	100,000	Continuous	CalHFA
Affordable Housing Innovation Fund	0	95,000	100,000	Budget Act	HCD
<u>Multifamily Rental Housing Program</u>					
General	140,000	101,000	345,000	Continuous	HCD
Supportive Housing	80,000	78,000	195,000	Continuous	HCD
Homeless Youths	15,000	15,000	50,000	Continuous	HCD
<u>Other Programs</u>					
Serna Farmworker Loans/Grants	40,000	40,000	135,000	Continuous	HCD
Emergency Housing Assistance	10,000	24,000	50,000	Continuous	HCD
Infill Incentive Grants	300,000	200,000	850,000	Budget Act	HCD
Transit Oriented Development	95,000	95,000	300,000	Budget Act	HCD
Housing Urban-Suburban and Rural Parks	0	30,000	200,000	Budget Act	HCD
TOTAL	**$973,000**	**$771,000**	**$2,850,000**		

Staff Comment: Consistent with last year's Prop 1C discussion, the subcommittee may wish the Administration and the LAO to comment on the following in light of the experiences of the intervening year:

- What is the appropriate level of funding for support costs – a level that minimizes administrative costs but allows for appropriate oversight? The HCD has previously suggested that total program overhead can be kept below 5 percent, which is similar to the level used for the Proposition 46 programs. Has the HCD been able to keep administrative costs below this threshold?

- For each bond program, what is the appropriate number of cycles, the schedule for the cycles, and the approximate amount of funding for each cycle? The amount of funding eventually provided for FY 2007-08 was different in several instances than was originally proposed in the Governor's Budget and the dollar totals for applications recently received has far exceeded the funds allocated in several instances. For example, the Infill Incentive Program (Infill) was budgeted at $300 million, released a Notice of Fund Availability (NOFA) for $240 million, and received approximately $1 billion in applications. Similarly, the Transit-Oriented Development Program was budgeted at and released a NOFA for $95 million and received $544 in applications. This suggests that there may be sufficient demand to release more of the bond funds earlier. Has the Department made any changes to its Prop 1C proposals relative to what is included in the Governor's Budget? What are the pros and cons associated with speeding up the delivery of the Infill funds, for example?

Staff Recommendation: Keep this issue open and direct staff to continue discussions with the department on the possibility of accelerating certain bond award schedules.

Action: Held open. The Chair directed staff to work with the HCD to determine how much various bond program awards may be accelerated to address high demand.

10. BCP-11: Housing Urban-Suburban-and-Rural Parks Program with TBL. The Governor proposes: (1) trailer bill language (TBL) to implement the Housing Urban-Suburban-and-Rural Parks (Housing-Related Parks) Program created under Prop 1C; (2) 2.0 positions and $583,000 (bond funds), including $350,000 for an interagency agreement with the Department of Parks and Recreation (DPR) to fund state operations of the Housing-Related Parks Program; and (3) Budget Act authority to award $30 million in bond funds to qualifying projects for housing-related parks.

Staff Comments: Prop 1C provided $200 million, available upon appropriation, for "housing-related parks grants in urban, suburban, and rural areas, subject to the conditions and criteria that the Legislature may provide in statute." The Governor proposed TBL to implement the Housing-Related Parks Program in FY 2007-08, but the Legislature opted to defer a final decision on the shape and form of the program until FY 2008-09. As a result the Administration has again proposed TBL to implement the program. The Administration TBL would require the HCD, "in conjunction" with the DPR, to provide grants to local governments based on the following criteria:

1. The jurisdiction has adopted a compliant housing element.
2. The jurisdiction is "critically underserved by park and recreation facilities" and the park or recreation facility for which the funds are to be used meet minimum park standards as determined by the DPR (in both instances).
3. Grant amounts would be determined based on new housing starts as a per-bedroom incentive. (Staff notes that the Administration proposal assumes $500 in grant funding per unit.)
4. Additional bonus funds could be awarded for (1) high park need as determined by the DPR; (2) meeting or exceeding housing production thresholds as determined by the HCD and the Department of Finance; and/or (3) housing starts that are affordable to lower income households.

The subcommittee may wish the HCD to discuss in greater detail the way in which this program would work.

Staff Recommendation: HOLD OPEN.

Action: Held open.

11. BCP-18: Prop 1C Affordable Housing Innovation Programs—SB 586 Implementation. The HCD requests 5.0 two-year limited-term positions and $559,000 (special funds) to implement new Prop 1C Affordable Housing Innovation Fund Programs, as authorized by Chapter 652, Statutes of 2007 (SB 586).

Staff Comments: Prop 1C provided $100 million to the Affordable Housing Innovation Fund for a variety of purposes. Subsequent legislation, SB 586, specified the funds to be used in the following manner:

- Affordable Housing Revolving Development and Acquisition Program – Loan Fund ($25 million)
  - ➢ Provide loans for the purchase of real property for the development or preservation of affordable housing.

- Affordable Housing Revolving Development and Acquisition Program – Practitioner Fund ($25 million)
  - ➢ Primarily to provide funds to nonprofit entities for projects developing or preserving housing affordable to low and moderate-income households.

- Local Housing Trust Fund Matching Grant Program ($35 million)
  - ➢ Continues the program created under Prop 46 to provide matching grants for local programs. Fifty percent of the funds must be used for newly established trusts, and some funds must go towards rural trusts.

- Innovative Homeownership Program ($10 million)
  - ➢ This program allows HCD to draft guidelines for innovative projects that would reduce the cost of affordable housing.

- Construction Liability Insurance Reform Pilot Program ($5 million)
  - ➢ Funds a predevelopment program for best practices for state-sponsored housing programs.

SB 586 additionally requires the HCD to develop regulations regarding priorities and funding structure for the programs created under the Affordable Housing Innovation Fund Program.

Staff notes that the requested resources are consistent with the Senate floor analysis of SB 586.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

12. BCP-4: Budget Office Workload. The HCD requests 1.0 position and $106,000 (various funds) to properly administer and manage the department's expenditure authority, fund availability, and bond accountability requirements.

Staff Comment: The HCD currently has 3.0 "budget" staff to manage a budget in excess $500 million that spans 34 funding sources. The passage of Proposition 46 in 2002 and Proposition 1C in 2006 significantly diversified the housing portfolio, which correspondingly increased the volume and complexity of overseeing the HCD budget. The table below provides a comparison of the HCD (pre-Prop 1C, which added nine additional fund sources) to several other departments based on some of the characteristics that drive the need for budget staff:

Department	PYs	Total Funds ($s approximate and rounded in 000s)	# of Funds	# of Programs	"Budget" Staff
HCD	526.9	$664	25	5	3
Energy Comm	500.3	$510	14	5	3
Toxics	1,003.7	$181	7	5	4
Alcohol & Drug	323.2	$663	12	2	5
Conservation	628.6	$1,049	22	6	5
OES	520.6	$1,295	12	9	18

(All data based on the 2007-08 Governor's Budget)

As the table depicts, the number of budget staff allocated to departments does not follow a strict formula; however, among the sample presented, the HCD ranks mid-to-high across each of the categories that primarily influence the number of budget staff required while ranking at the bottom in terms of budget positions authorized. Staff notes that, particularly with regard to the number of funds managed, the HCD budget generates significant challenges because 17 of the funds have both state operations and local assistance appropriations (contributing to HCD's 95 total and 28 Budget Act appropriations). Additionally, some HCD programs have long-term requirements, like loan monitoring of up to 55 years.

According to the HCD, the unique and growing challenges of its budget combined with a current statewide trend that finds many experienced staff leaving the workforce has substantially hampered the ability of the Budget Office to serve its internal and external customers quickly and efficiently. The department indicates the Budget Office has lost approximately half of its budget experience over the past several years and indicates that the complexity of the HCD budget and the long hours demanded by a small budget office have created recruitment and retention problems.

Based on the workload analysis provided, the HCD justifies at least 2.0 additional budget positions, but, given the current fiscal crisis, respectfully requests only 1.0 position with the intention, if the request is approved, of returning in the future if the need warrants. Staff notes that the requested position appears well justified on a workload basis, but may not meet the subcommittee's fiscal-crisis criteria for budget augmentations—that the request addresses life and safety or generates off-setting revenues or savings.

Unless the HCD can make a business case for the requested positions, the subcommittee may wish to deny the proposal.

Staff Recommendation: DENY the request without prejudice toward the need, and offer reconsideration under improved fiscal conditions in a future budget year.

Action: Approved the request on a 2-0 vote.

13. BCP-6: Preservation of the HCD's Older Affordable Housing Portfolio—SB 707 Workload. The HCD requests 3.0 two-year limited-term positions and $351,000 (various special funds) to perform work authorized by Chapter 658, Statutes of 2007 (SB 707) and certain changes in regulation, associated with extension of loan terms for affordable housing loans.

Staff Comment: SB 707 provided statutory authority for the HCD to extend and modernize the loans in its oldest portfolio through conversion to the department's omnibus Multifamily Housing Program (MHP) structure. The old loans on 140 projects, representing 4,000 units of affordable housing, are coming to the end of their terms and repayment of the loans would, in a majority of cases, require the sale of the property. According to the HCD, this would likely result in a net loss of affordable rental housing to the state because the loan repayment dollars would be insufficient to purchase/build an equivalent number of affordable units at today's prices. Therefore, assuming the Legislature's policy goal is to maintain current levels of affordable housing, the conversion and preservation of affordable housing under SB 707 and pursuant to various regulatory changes, the 3.0 limited-term positions requested by the HCD appears to provide the least-cost method for achieving this goal and likely avoids other costs to the state that would be incurred if current residents lost their affordable housing.

Staff notes that the conversion/extension process created under SB 707 is entirely voluntary to the project owner and extends the period of affordability by 55 years (from the date of the conversion under a new loan term). The HCD indicates that the initial costs of this proposal would be funded from existing special fund balances until new interest revenues (on the converted loans) begin to flow.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

14. FL-1: Local Agency Code Enforcement—Transfer of Local Agency Responsibility to the HCD. The HCD requests 5.0 positions and $521,000 (special fund) to address the transfer from local agencies of code enforcement responsibilities for mobilehomes and special occupancy parks back to the state.

Staff Comments: Under existing law, the HCD is required to enforce the Mobilehome Park and Special Park and Special Occupancy Park Acts if a local government opts to cancel its assumption of these responsibilities. According to the HCD, this request is necessary because San Bernardino County may return enforcement responsibility of

223 mobilehome and special occupancy parks (including 20,500 spaces) to the state on or before July 1, 2008.

The HCD currently provides enforcement for 149,004 spaces with 40.0 District Representative Is (DRIs) and 8.0 District Representative IIs (DRIIs) (a 5:1 ratio of DRIs to DRIIs, and a DRI to park space ratio of 1:3,725). The HCD indicates that this request includes 3.0 DRIs and 1.0 DRII (rather than the 5.0 DRIs that the current ratio would indicate) because the current permit-to-operate fee structure will not support two additional DRIs, and fee-for-service fees are based on 2001-02 salaries. Additionally, the HCD is hopeful that the park jurisdiction will be returned to the state in good condition, with proper recent monitoring and inspections completed and up-to-date.

Staff notes that the Administration has proposed provisional language to make the requested funding contingent upon the HCD's assumption of the enforcement responsibilities should San Bernardino County opt to cancel its assumption. However, the subcommittee may wish to simply hold the item open to wait and see whether a decision is made in the next month given that this request may be unnecessary.

Staff Recommendation: HOLD OPEN to allow the maximum time for the Legislature to learn whether San Bernardino County will indeed return its enforcement responsibilities to the state.

Action: Held open.

2320 Department of Real Estate

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

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

DISCUSSION ITEMS:

1. Informational Item: Workload Analysis Report and Future Trends in DRE Workload. Provisional language included in the Budget Act of 2006 required the DRE to provide the Legislature, by January 10, 2008, with a report containing actual workload data from the 2005-06 and 2006-07 fiscal years, including the total number of licensees; the number of exams scheduled; the number of licenses issued, the number of enforcement cases assigned; the number of audits performed; the number of Subdivision Program filings; and the number of legal actions filed.

Staff Comment: The provisional language was introduced to the Budget Bill in order to track and validate augmentations approved in FY 2006-07 in the Enforcement and Subdivisions Programs (totaling 37.0 positions and approximately $3.0 million). Due to late receipt of the report (staff received an unofficial release on April 7, 2008) staff has had insufficient time to review the report in detail; however, the subcommittee may wish the department to summarize the key points of the report and address the following questions:

- The licensee population and salesperson examination projections the DRE made during the FY 2006-07 budget process for FY 2007-08 have proven to be high—by about 10 percent and 20 percent, respectively—relative to updated estimates for the current fiscal year. In hindsight, what played out differently than the DRE expected in the real estate market over the last couple of years? How does the department expect these trends to track over the next couple of years?
- Although not included in the reporting requirement, the positions approved in the 2006-07 budget process were intended, among other things, to help expedite investigations and audits. To what extent has this occurred? Would the department object to providing enforcement data in future reports?

Staff Recommendation: Direct staff, LAO, and the Administration to AMEND Provision 2 of Item 2310-001-0317 to include reporting on various DRE enforcement metrics.

Action: Approved the staff recommendation on a 2-0 vote. Staff will work with the LAO and Administration to develop provisional language that includes relevant enforcement metrics.

2. BCP-1: Fiscal & Business Services Workload. The DRE requests 3.0 positions and $139,000 (special fund) to process incoming and outgoing mail and provide support services to the Sacramento Office. This augmentation is being sought to offset the workload support demands of a high licensee population.

Staff Comment: As with many state agencies, the DRE has moved toward greater reliance on electronic processes over the last several years to generate efficiencies and improve service to the public. In FY 2006-07 alone, the Legislature approved the DRE for an Information Technology (IT) Replacement Project, an Interactive Voice Response IT Project, and an Electronic Examinations IT Project. However, even while the DRE has moved increasingly toward the "e-licensing" of its brokers and real estate agents, and in so doing reduced incoming mail from approximately 351,000 pieces in FY 2004-05 to a projected 252,000 in FY 2007-08, the department's duties continue to require substantial physical handling of mail. According to the department, while the licensee population has increased dramatically in recent years, no additional staff has been provided for mail processing in over a decade. As a result, temporary help, overtime, and redirections have been used to meet the need.

Staff notes that, in reviewing this proposal, the Legislative Analyst's Office (LAO) concluded that the department has provided sufficient workload justification for only 2.0 of the 3.0 requested positions. Additionally, the LAO concluded that one of those positions can and should be funded from the DRE's temporary help blanket, since the department has been using temporary help to partially address the subject workload. As such, the LAO recommends that the Legislature (1) reduce the request by $92,000 and 1.0 position (Office Assistant); thereby, leaving the DRE with about $47,000 and 2.0 new positions (Program Technicians), and (2) redirect approximately $47,000 from DRE's temporary help blanket to cover the balance of funds needed to support the positions. The DRE concurs with the LAO position, and is in support of using temporary help funds to support 1.0 of the 2.0 positions recommended for approval.

Staff Recommendation: APPROVE the LAO recommendation.

Action: Approved the LAO recommendation on a 2-0 vote.

3. Informational Item: Real Estate Fraud Prosecution Trust Fund Program—Inadequate Reporting by Counties. According to the LAO's *Analysis of the 2008-09 Budget Bill*, counties that participate in the Real Estate Fraud Prosecution Trust Fund Program (Program) are not providing consistent data on their activities under the program or may not be reporting at all.

Staff Comment: The Program was created in 1995 to allow counties to establish a fee of up to $2 for certain real estate documents filed with the county to support local law enforcement activities to fight real estate fraud. Under existing law, recipients of Program monies are required to provide an annual report on their activities and outcomes to the country board of supervisors, who must then submit the annual reports to the LAO. The LAO is required to annually compile the information in the reports and report to the Legislature. Although the legislation took effect at the beginning of 2006, the LAO indicates that it did not receive the first reports from the counties until October 2007, and then from only two—Sacramento and Santa Clara Counties. The LAO believes that, based on anecdotal evidence, as many as 22 counties may be participating in the program. This suggests that many counties may not be aware of their obligation to report on the program. Additionally, the LAO notes that inconsistencies in the presentation of the data submitted may make the reports less valuable to the Legislature in setting future policy.

The subcommittee may wish to ask the DRE how to best address these issues.

No action necessary.

8940 Military Department

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

The Governor's Budget begins by funding 888.5 positions (a net increase of 77.0 positions over adjusted current year totals) and budget expenditures of $146.5 million (including $47.5 million GF) for the department, but then includes 10-percent, across-the-board, GF reductions (BBRs) of approximately $4.6 million. The individual BBRs are as follows:

Program	**General Fund***	**Personnel Years (PYs)**
Army National Guard	-$1,621	-2.9
Air National Guard	-$400	--
Office of the Adjutant General—Admin.	-$1,382	-8.6
Military Support to Civil Authority	-$200	-1.9
Military Retirement	-$200	--
California Cadet Corps	-$119	--
State Military Reserve	-$100	--
CA National Guard Youth Programs	-$700	-5.7
TOTALS	-$4,622	-19.1

(*dollars in thousands)

As illustrated in the table below, the net effect of the Governor's proposals would be a 7.0 percent increase in total funds for the CMD (relative to adjusted Fiscal Year 2007-08 totals) primarily as a result of a proposed assessment on multiperil insurance policies to fund the Governor's Wildland Firefighting Initiative, including new firefighting capabilities in the CMD budget (see Discussion Item 10 below). Staff notes that, given multiple GF augmentations proposed in the CMD, the Governor's 10-percent, across-the-board reductions would result in a less than 2-percent reduction in the CMD GF budget (relative to adjusted Fiscal Year 2007-08 totals).

	Total Funds*	General Fund*
Adjusted 2007-08 Budget	$131,650	($43,802)
2008-09 Base Budget	$146,534	($47,549)
Proposed Budget-Balancing Reductions	-$5,622	(-$4,622)
GOVERNOR'S REVISED 2008-09 TOTALS	$140,912	($42,927)
Change—Year Over Year	+7.0%	-1.9%

(*dollars in thousands)

VOTE-ONLY ITEMS:

1. BBR: Army National Guard. The Governor proposes a reduction of $1.5 million GF and 3.0 positions to this program, whose objective is to optimize the readiness of the CNG's community-based land force to respond to state emergencies and national security missions.

Staff Comment: According to the CMD, this reduction would delay major and minor repairs. Staff notes that this program is predominantly supported by federal funds (approximately $48.7 million in FY 2008-09), and this reduction would result in the loss of $100,000 in federal matching funds. Taken together, the proposed GF and federal fund reductions represent approximately 2.5 percent of the overall program budget; however, the CMD indicates the way in which the reduction would be taken would result in a 14.3-percent reduction to the maintenance, repair, and modernization budget.

2. BBR: Air National Guard. The Governor proposes a reduction of $400,000 GF to this program, whose objective is to optimize the readiness of the CNG's community-based air force to respond to state emergencies and national security missions.

Staff Comment: According to the CMD, this reduction would result in a more rapid deterioration of facilities and increase safety and environmental risks. Staff notes that this program is predominantly supported by federal funds (approximately $15.6 million in FY 2008-09), and this reduction would result in the loss of $400,000 in federal matching funds. Taken together, the proposed GF and federal fund reductions represent approximately 4.0 percent of the overall program budget. Staff additionally notes that the Legislature approved a Current Year (CY) reduction of $100,000 GF to this program in special session.

3. BBR: Office of the Adjutant General—Administration. The Governor proposes a reduction of $1.4 million GF and 9.0 positions to this program, which provides strategic methodology and organization to fulfill CNG missions and governs the joint activities and performance of the CMD in such areas as personnel and fiscal resource management, judicial affairs, internal controls, facility management, and information technology.

Staff Comment: According to the CMD, the department would eliminate 8.6 PYs including 3.0 positions in the Military Funeral Honors Program, reducing program capability by 60 to 75 funerals per month (or 720 to 900 per year). As previously noted in special session, when the Legislature approved a $700,000 reduction to this program, in 2007-08, the Legislature approved $1.8 million GF and 23.0 positions to meet the need for approximately 1,000 military funeral honors per month. Although acknowledging this proposal would necessarily reduce the day-to-day capability of the program, the department still anticipates being able to meet peak workload, and its 1,000 funeral goal, using staff overtime.

4. BBR: Military Support to Civil Authority. The Governor proposes a reduction of $200,000 GF and 2.0 positions to this program, which plans and prepares to support civil authority when called to state service by the Governor due to domestic emergency or natural disaster and to provide state, county, city, and other public agencies with the coordination necessary to insure a timely, organized response.

Staff Comment: According to the CMD, this proposal would reduce operational and emergency response planning efforts, primarily for future missions (as opposed to current missions such as search and rescue, wildfire fighting, and flood and earthquake response). Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

5. BBR: Military Retirement. The Governor proposes a reduction of $200,000 GF to this program, which provides retirement benefits to persons who entered state active duty prior to October 1, 1961, and have served 20 or more years, at least 10 of which have been on state active duty, or have been separated for physical disability.

Staff Comment: According to the CMD, this proposal would result in minimal impact because the program exclusively serves individuals who served prior to October 1, 1961. Therefore, the number is not growing and is in fact shrinking as retirees pass away (which is how the savings will be generated). Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

6. BBR: State Military Reserve (SMR). The Governor proposes a reduction of $100,000 GF to this program, a volunteer organization that supports the CMD's CNG organizations during training, preparation for mobilization, demobilization, and military support to civil authorities during periods of state emergencies or disasters.

Staff Comment: According to the CMD, this proposal would reduce the department's ability to train SMR forces to respond to state emergencies.

7. BCP-5: Custodian for Roseville Armory. The CMD requests 1.0 position and $66,000 GF to hire a custodian for the newly expanded Roseville Armory.

Staff Comment: Custodial services are necessary to maintain the armory, protect the health and safety of those who use it, and avoid costs that would stem from untimely deterioration of the facility if regular cleaning and basic maintenance is not conducted. Staff notes that the cost for the requested position was noted in the capital outlay request for the expansion and remodel of the Roseville Armory (FY 2005-06).

8. BCP-6: State Active Duty (SAD) Employee Compensation Increase. The CMD requests a baseline augmentation of $1.3 million ($604,000 GF and $722,000 federal funds) to cover SAD employee compensation increases set by Congress.

Staff Comment: Because the state and federal fiscal years are staggered, this request seeks funds to address two federal employee compensation increases that will affect CMD expenditures in FY 2008-09. The first federal increase came on January 1, 2008, and the second is anticipated to occur on January 1, 2009. Consistent with previous practice, this request is accompanied by proposed provisional language that would ensure that the augmented spending authority is provided contingent upon federal approval of the estimated compensation increase.

9. BCP-12: CNG Financial Assistance Fund Manager. The CMD requests 1.0 position and $87,000 reimbursement authority to hire a manager to oversee the Iraq Afghanistan Development Impact Program (IADIP).

Staff Comment: The IADIP is a program supported entirely with private donations that supports families of deployed or formerly deployed National Guard members suffering from financial hardships. This position would oversee all aspects of the program.

10. BCP-13: Homeland Security Training and Exercise Program. The CMD requests continuation of $7.5 million in reimbursement authority and 13.0 limited-term (LT) positions (10.0 re-establishments and 3.0 new) to execute a continuing interagency agreement with the Governor's Office of Homeland Security (OHS).

Staff Comments: For the past three years, the CMD has provided statewide oversight of homeland security terrorism training and exercise activities supported by federal funding under the Homeland Security Grant Program managed by the OHS. Although the CMD requests 3.0 additional LT positions in continuation of these efforts, the department indicates that the programming levels, through FY 2010-11, will remain the same (at $7.5 million per year). Based on past experience, the CMD merely plans to utilize available funds to support a different mix of resources in support of the operation.

11. FL: Critical Infrastructure Protection (CIP) Teams. The CMD requests 14.0 limited-term positions and $2.1 million in reimbursement authority to execute an interagency agreement with the OHS to establish two CIP Teams to assess designated critical infrastructure sites and develop recommendations to mitigate vulnerabilities (including assisting sites in the development of security plans).

Staff Comments: Similar to Vote-Only Item 10 (above), the reimbursements for the aforementioned activities would be funded by the Homeland Security Grant Program managed by the OHS.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

Action: Approved the staff recommendation on a 2-0 vote.

DISCUSSION ITEMS:

1. BCP-2: Medical Services Branch Staffing. The CMD requests 3.0 positions and $228,000 GF to meet the increased need for services to wounded and deceased soldiers.

Staff Comments: The 3.0 positions requested would primarily address workload in the following two areas:

1. **Line of Duty (LOD) Reports—**An LOD report is related to the injury or death of a CNG soldier and contains the complete medical documentation and evidence required to support a claim related to a service-connected injury or illness. All medical payments and soldier Incapacitation Pay payments are contingent upon having an approved LOD. Typical processing time for a LOD report is 30-60 days and requires inputs and action at the unit, CMD, and National Guard Bureau. Timely processing insures that the soldier's medical bills are paid on time and avoids unnecessary problems with delinquent collection actions. Currently, the CMD has 269 open (not completed) LOD reports which affect CNG soldiers' receipt of medical benefits. From 2004-2007 over 1,117 CNG soldiers have been injured during pre-deployment training or during deployment and an average of 1,075 LODs were processed per year. Although the CMD indicates that current personnel allow the processing of only 66 percent of the required LODs, staff notes that the department has not provided sufficient data to support this contention or justify the need for the additional position requested for these activities.

2. **Casualty Assistance—**The CMD asserts that there is a shortage of staff to cover increasing casualty operations missions. From July 2004 through July 2007, the CMD had 158 CNG soldier casualties and completed 250 Casualty Notification Officer missions and 99 Casualty Assistance Officer missions. The CMD is required to have on call personnel 24 hours a day for its casualty operations mission. At present the CMD has 2.0 permanent and 1.0 temporary positions for this purpose. Casualty assistance is a full-time responsibility that can take several weeks of dedicated support and up to several months of follow up. Similar to above, the CMD has not provided sufficient data to support the contention that the department is short-staffed in this area.

All told, the above activities are currently supported by 4.0 permanent and 3.0 temporary positions. The CMD indicates that the 3.0 permanent positions requested would replace

3.0 temporary staff (1.0 state-supported and 2.0 federally supported) that will be released on or about September 30, 2007.

Staff Recommendation: DENY the request based on insufficient workload justification, but offer reconsideration should the department bring forward additional information in the future.

Action: Denied the request on a 2-0 vote, but offered reconsideration based on additional information.

2. BCP-3: Joint Operations Center (JOC) Staffing. The CMD requests 14.0 positions and $1.3 million GF for the JOC to provide immediate response to the Governor's Office, Office of Emergency Services (OES), and the public during disasters and special security events.

Staff Comments: The JOC serves California by providing command and control of CNG and State Military Reserve units assigned to emergency operations by the CMD. The JOC tracks the status of CNG units and equipment to ensure the CMD maintains appropriate capability to respond quickly and effectively to state emergency missions. JOC personnel work directly with the OES and the OHS on a daily basis to monitor potential threats from natural or man-caused disasters that may require deployment of military units to support civilian authorities.

The CMD currently operates the JOC by diverting federal funding from the Southwest Border Security mission (Operation Jump Start) to hire temporary soldiers and airmen in a federal status as staff. That funding is ending in July 2008. Prior to the start of Operation Jump Start, the CMD resourced the JOC by re-directing federal funds intended for positions that would perform maintenance on CNG vehicles and aircraft, which affected their readiness rates during missions and training. The resources requested in this proposal would enable the CMD to maintain the current level of 24/7 communications with state and local emergency response agencies and to respond within 12 hours to a request for emergency assistance (a 50-percent improvement in response time compared to historic levels when the JOC relied solely on the GF).

Staff notes that the current speed and quality of CMD emergency response is as high as it has ever been. Given that the current capability is partially supported by federal funding that is about to disappear, the Legislature is faced with a policy decision as to whether maintaining the current level of emergency response reflects the highest and best use of scarce GF. Since the CMD has previously found creative ways to improve JOC capability by redirecting federal funds, the subcommittee may wish to explore whether this is again an alternative given the current fiscal crisis. For example, Discussion Item 3 (below) contains new federal grant dollars for emergency planning activities that may share a nexus with the activities performed by JOC staff (when they are not actively responding to an emergency). Although the CMD recognizes emergency planning and response as two distinct and separate activities, and JOC personnel are ostensibly “response” staff, the subcommittee may wish the department to clarify whether JOC staff ever engage in planning that might be federal-eligible.

Given the scarcity of GF, the subcommittee may also wish to have the CMD provide several alternative scenarios involving reduced staffing levels (and, therefore, savings to the GF). For example, staff notes that the BCP includes an alternative in which $376,000 GF could be used to support 4.0 positions that would still allow 24/7 JOC staffing, but at a level of 1.0 position per shift instead of 3.0.

Staff Recommendation: HOLD OPEN.

Action: Held open.

3. FL: CMD Homeland Security Staffing. The CMD requests 6.0 limited-term positions and $800,000 in reimbursement authority to provide planning, training, and all-hazard emergency planning in support of the Governor's Office, Office of Emergency Services (OES), and OHS.

Staff Comments: This request would be supported by federal grant dollars awarded for the purpose of planning, training, and intelligence analysis associated with anti-terrorism and counter-terrorism efforts. The CMD indicates these resources would enable the department to continue to address concerns previously raised by the Bureau of State Audits about the CMD's lack of an adequate strategic planning process. According to the CMD, without the requested resources, the department "will not have the necessary staff to conduct the preparation, planning, training, exercises, and coordination in support of the OHS and other [state and federal agencies who respond in the case of an emergency]."

As noted above (in Discussion Item 2), it is not entirely clear whether, or if, there is overlap between the "all-hazard" planning activities supported by these federal funds and the planning the state would conduct "on-the-natural." Given the current fiscal crisis, the subcommittee may wish to verify with the CMD that there are not any allowable uses of these federal funds that would meet state objectives currently supported by GF. For example, staff has raised the question (above) as to whether there are activities carried out by JOC staff that would qualify for federal support.

Staff Recommendation: APPROVE the request.

Action: Approved the request on a 2-0 vote.

4. BCP-4: Computer Lifecycle Replacements. The CMD requests $273,000 GF in 2008-09 (and $538,000 ongoing) to fund computer lifecycle replacements (at a rate of 25 percent each year—or complete refresh every 4 years).

Staff Comments: The CMD is authorized 780.0 state personnel assigned to 51 different Sections. In the past, each Section has funded IT equipment using funds redirected out of its internal base program. This has led to a significant department-wide disparity in capability and configuration. The CMD indicates that over the last three years only 20 Sections purchased IT equipment with state funds. Most Sections have purchased IT equipment using redirected discretionary federal funds.

According to the CMD, a baseline funding allotment for IT would allow the Directorate of Information Management to proactively manage the lifecycle of user level IT equipment. The result would be 1) compatibility with and networthiness on the Army network which is used throughout the CMD for day-to-day operations; 2) volume discounts; 3) configuration management limiting the number of different makes and models of equipment; 4) reduction in time and labor required to review and approve individual purchase requests and inventory management; and 5) replacement of equipment before Sections experience unacceptable rates of equipment failures.

Staff Recommendation: DENY the request without prejudice toward the potential need, and offer the CMD reconsideration under improved fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

5. BCP-8: California Cadet Corps (CaCC) Staff and Operating Funds. The CMD requests 1.0 position and $185,000 GF to purchase new cadet uniforms and better coordinate administrative support activities and logistics for the CaCC Program.

Staff Comments: The CaCC is a school-based, applied leadership program conducted within a military framework at high schools and middle schools statewide. Currently, the program is provided at 89 schools and serves approximately 10,000 students. The development and maintenance of the individual units of the CaCC is a shared responsibility of the local school authorities and the CMD.

According to the CMD, permanent funding cuts and loss of positions five years ago has resulted in the neglect of cadet uniforms over the past several years to the point that existing uniforms are sub-standard and do not adequately reflect the pride and esprit de corps of the students wearing the uniform. The current CaCC baseline budget of $450,000 provides approximately $45.00 in funding per cadet, per year. The cost of one class B uniform alone is $52.00 (which does not include the costs of shoes). In addition, the current CaCC budget does not allow for the purchase and distribution of the cadet physical fitness uniform ($32.00) or the cadet utility uniform ($69.00). This request would provide approximately $110,000 for new uniforms and fund 1.0 new position to conduct administrative activities and provide logistical support for the program.

Staff notes that this proposal does not meet the subcommittee's fiscal crisis-criteria of addressing life and safety concerns or generating offsetting revenues or savings. Additionally, the requested position does not appear well justified. Insofar as the alternative was not explored in the BCP, the subcommittee may wish to encourage the CMD to consider reducing the number of students served by the program in order to more adequately meet the uniform needs of the participants within existing resources.

Staff additionally notes that this item is directly related to Item 6 (below) in which the Governor has proposed a 10-percent reduction to the CaCC Program (an $119,000 GF reduction). Staff notes that if both items were approved, the result would still be a net increase of $66,000 GF to the program.

Staff Recommendation: DENY the request.

Action: Denied the request on a 2-0 vote.

6. BBR: California Cadet Corps (CaCC) Program. The Governor proposes a reduction of $119,000 GF to the CaCC Program.

Staff Comment: As noted in Item 5 (above), the Governor's Budget first builds up the CaCC Program budget and then proposes to cut most, but not all, of the increase. According to the CMD, the combined effect of these proposals (if both are approved) would be to limit the department's ability to provide new uniforms to participants in the CaCC Program. However, if the subcommittee opts to deny the augmentation in Item 5, it may wish the CMD to provide additional information on the potential impact before deciding to take the additional reduction reflected in this proposal.

Staff Recommendation: DENY the reduction.

Action: Denied the reduction on a 2-0 vote.

7. BBR: California National Guard Youth Programs. The Governor proposes a reduction of $1.2 million GF and 6.0 positions to this program, which operates five youth programs located throughout the state.

Staff Comment: According to the CMD, the proposed reduction would be taken in the following manner: (1) Headquarters of Youth Programs: 1 PY in management; (2) Oakland Military Institute: 1 PY dedicated to student supervision and training; (3) Grizzly Youth Academy: $212,000 in state funding, $318,000 in federal funding, and 1 PY, requiring it to serve 90-100 fewer students annually; (4) Challenge Support: $56,000 and 1 PY and resulting in difficulty in reaching the graduation requirement of 200 students; and (5) Sunburst Youth Academy: $100,000 in state funding, $200,000 in federal funding, and 1 PY, requiring it to serve 80-90 fewer students annually.

Staff notes that the Legislature approved a CY-reduction of $100,000 GF to this program in the special session.

Staff Recommendation: APPROVE the reduction.

Action: Held open..

8. FL: Sunburst Youth Academy Staff and Operating Funds. The CMD requests 3.0 positions and $280,000 (federal funds) for the Youth ChalleNGe Program at Los Alamitos Joint Forces Training Base.

Staff Comment: The Youth ChalleNGe Program was established in 1993 and utilizes a 22-week residential phase and a one-year post-residential follow-up phase to intervene in the lives of at-risk high school drop-outs. The Sunburst Youth Academy is the CNG's second and newest Youth ChalleNGe Program, established in FY 2006-07 with $3.9 million ($900,000 GF) and 17.8 positions. The program is an accredited high school in which all Sunbrust students attend daily and are engaged in a course of study aimed at earning a high school diploma and/or making progress toward passing the General Educational Development test and California High School Proficiency Exam.

As noted above in Discussion Item 7, the Governor's proposed reductions to CNG youth programs would result in $100,000 less GF and $200,000 less federal funding to Sunburst (as well as loss of 1.0 PY), requiring it to serve 80-90 fewer students annually. According to the CMD, the GF-match for the requested funding is already contained in the program's baseline budget, but was not previously matched because it was used for non-eligible program start-up costs (like equipment purchase). Staff notes that these funds would all but offset the BBR proposed above and would enable the Sunburst Academy to continue its ramp-up to its original target of serving 150 students at a time. However, if the subcommittee chooses to maintain the level of service funded by the Governor's January 10 budget (i.e. 50 fewer students), then the proposed funding could be used to directly offset additional GF reductions to the program (and the current program service level would be "held harmless").

Staff Recommendation: APPROVE $114,000 in additional federal funding authority and reduce the Sunburst Youth Academy budget by a corresponding $114,000 GF.

Action: Held open..

9. BCP-14: CNG Education Benefit Program with TBL. The CMD proposes TBL to establish a new CNG Education Benefit Program, and requests 1.0 position and $1.8 million GF (and $3.6 million ongoing) to implement the program.

Staff Comment: In last year's budget, the CMD put forth a similar proposal for a new education benefit program to assist in the recruitment and retention of CNG members. However, the subcommittee denied the request without prejudice toward the need or potential benefit of the program because the policy of providing a non-needs-based education benefit represented a significant departure from existing policy and had not been vetted by the appropriate policy committee (Senate Education), and because the TBL was unworkable as proposed. The subcommittee encouraged the CMD to return at a future date with a more fully-vetted policy proposal.

This year, the CMD has proposed an education benefit program with the following characteristics:

- To qualify, a CNG member must: (1) be a California resident and an active member with two years of service in the CNG, State Military Reserve, or the Naval Militia; (2) have been accepted or registered at, or enrolled in, a qualifying institution (including a University of California—UC, California State University—CSU, or California Community College—CCC); and (3) agree to use the benefit to obtain a certificate, degree, or diploma that he or she does not already hold.
- The Adjutant General would review the program applications and certify the eligibility of the qualifying member to the Student Aid Commission (SAC).
- The SAC would be responsible for issuing the program awards which would not exceed the cost of attendance at the qualifying institution.

- The SAC would adopt rules and regulations, in consultation with the CMD, to administer the program, including provisions that establish the priorities for allocating available money to applicants.

The requested funding would cover the half-year costs in FY 2008-09, and the full-year costs thereafter, of program administration as well as fees, books, and supplies for approximately 1,000 awardees (including 500 at CCCs, 300 at CSUs, and 200 at UCs).

Staff notes that, concurrent with this budget request, the Administration has sponsored a policy bill, SB 1752 (Wyland), that was introduced containing the same language as the TBL proposed with the Governor's Budget. SB 1752 is currently in the Senate Education Committee, and the CMD indicates that it is working closely with policy staff there to address the committee's concerns. Consistent with past practice in the Senate (and not withstanding the Administration's identification of this request as a "baseline" budgeting issue), the subcommittee may wish to allow the proposed policy change to undergo a full hearing through the traditional bill process before providing funding to the program. Further, staff notes that given the subcommittee's current approach to new or recent legislation, this proposal would not clearly qualify for immediate funding anyway since there is not a direct nexus between the program and issues of life and health, nor are there immediate and offsetting revenues or savings.

Staff Recommendation: DENY the request.

Action: Denied the request on a 2-0 vote.

10. BCP-17: Wildland Firefighting Initiative. The CMD requests 43.0 positions and $9.2 million (Insurance Fund) to provide 24/7 Aviation Response Staffing and to purchase helicopters and aerial firefighting equipment in support of the Governor's Wildland Firefighting Initiative.

Staff Comment: The source of funding for this proposal is predicated on the Department of Insurance imposing on insurers an annual assessment of 1.25 percent of the premium for each commercial and residential multi-peril insurance policy. On a premium base of $10.5 billion, the proposed assessment would generate approximately $109 million in 2008-09 and an estimated $125 million annually thereafter. Under the Governor's budget proposals: (1) $77.6 million would be for CALFIRE staff, activities, and equipment; (2) $9.2 million for this BCP; (3) $1.9 million to OES to supplant baseline GF supporting the Mutual Aid Response program; and (4) $10.2 million for additional fire engines and firefighters for the OES.

On January 29th, the Full Committee heard this issue and raised numerous concerns with the viability of the funding proposal. In addition, the Department of Insurance in a letter to the Chair of the Full Committee cited constitutional, implementation, and mandatory sharing of non-individual risks issues with the funding proposal.

Staff Recommendation: DENY the request without prejudice, due to the lack of a stable funding mechanism. The subcommittee should revisit this issue if the Military can provide an alternative, non-GF funding source.

Action: Denied the request on a 2-0 vote.

11. COBCP-2: Kitchen Renovations Statewide. The CMD requests $500,000 (including $254,000 GF) to renovate and enlarge kitchen facilities within existing Life Support Areas at selected armories throughout California to correct fire/life safety, Public Health and other code deficiencies.

Staff Comments: The CMD indicates that kitchen facilities at many armories do not currently comply with applicable laws and regulations and cannot be used for cooking and food preparation. At a cost of $250,000 each, this request would fund the renovation and expansion of two kitchen facilities.

Staff notes that, to the extent the identified kitchen facilities are not in use, the proposed renovations are not absolutely necessary at this time. While life and safety have been identified by the subcommittee as funding priorities during the present fiscal crisis, based on information provided by the CMD, the existing facilities do not appear to pose an immediate risk to anyone so long as current practice prevails and they remain unused. Should the subcommittee opt to deny this request and save $250,000 GF, the CMD's long-term plan to renovate its armory kitchen facilities statewide (at the rate of approximately two kitchens per year) would be delayed. This would result in the identified kitchens continuing to be unsafe for use in the case of an emergency.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

12. COBCP-1: Latrine Renovations Statewide. The CMD requests $579,000 (including $232,000 GF) to renovate and enlarge latrines within existing Life Support Areas at selected armories throughout California to redress Americans with Disabilities Act (ADA), and other code deficiencies.

Staff Comments: According to the CMD, most state armories are over 50 years old and do not meet ADA requirements. In addition to remedying ADA compliance issues, the CMD indicates this request would provide separate showers for females in some armories where they are not currently available.

Staff notes that, similar to the kitchen renovations above (Discussion Item 11), these renovations are part of a long-term plan to update latrine facilities statewide that have been funded in the past. However, given the current fiscal crisis, the subcommittee may wish to suspend/delay these renovations.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

13. COBCP-6: Advance Plans and Studies. The CMD requests $250,000 (including $125,000 GF) to conduct studies and design charrettes for planned projects in order to improve the CMD's ability to scope and estimate funding.

Staff Comments: The CMD's current method for developing the scope of projects, which tends to underestimate the higher costs of construction in California, has not been accurate, and this has often resulted in project cost overruns. According to the CMD, this request would better enable the department to scope and fund projects appropriately.

Staff notes that, although the proposed studies might result in long-term savings to the state by accurately scoping and resourcing capital outlay projects (and avoiding costly delays), the current fiscal crisis makes it significantly less likely that any major projects will be funded in the immediate future. Therefore, this request may not produce any immediate benefits.

Staff Recommendation: DENY the request without prejudice and offer reconsideration under better fiscal conditions in a future year.

Action: Denied the request on a 2-0 vote.

Control Section 25.25—21st Century Project

This control section authorizes the State Controller to assess various special and nongovernmental cost funds and reimbursements to pay for the Controller's costs, not to exceed $16,446,000, in implementing the 21st Century Project (a replacement of the existing automated human resource/payroll systems).

Staff Comment: Staff notes that the 21st Century Project budget request was held open when the State Controller's budget was heard on March 26, 2008, because the Administration anticipated submitting an updated request with the Governor's May Revise. Although the Administration has proposed no significant substantive changes to the language in this control section, the dollar limit contained therein will need to reflect the final amount approved for the project. Thus, in order to deal with this item expeditiously, the subcommittee may wish to close this item by acknowledging that it will conform to the final action taken on the Controller's budget.

Staff Recommendation: CLOSE the item consistent with the rationale stated above.

Action: Approved the staff recommendation on a 2-0 vote.

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Tom Harman
Christine Kehoe

Hearing Outcomes

Wednesday, April 23, 2008
9:30 a.m.
Room 113

Consultant: Brian Annis

Transportation

0520 Secretary for Business, Transportation and Housing

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

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

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

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

The Governor proposes total expenditures of $22.7 million ($7.1 million General Fund) and 66.5 positions for the Office of the Secretary – an increase of $800,000 and 7.6 new positions.

Budget Changes proposed for Vote Only

1. New Position for Broadband Promotion (BCP #4). The Administration requests an ongoing augmentation of $162,000 (General Fund) and one new position to undertake a number of responsibilities to increase broadband access and adoption throughout California. The Governor signed an Executive Order in 2006 titled "Twenty-first Century Government: Expanding Broadband Access and Usage in California." Among other activities, the order established a California Broadband Task Force that produced a final report in January 2008 titled "The State of Connectivity – Building Innovation Through Broadband" (see also www.calink.ca.gov). According to the BCP, the positions would manage ongoing activities related to the order such as compiling data and reports, coordinating workgroups and efforts by multiple state departments, and promoting best practices.

Staff Recommendation: Without prejudice to the merits of this request, this is a new discretionary initiative. The Subcommittee may want to consider rejection of this request due to the severity of the General Fund budget situation.

Staff Recommendation: Reject this request.

Action: Rejected request on a 2 – 0 vote with Senator Kehoe absent.

2. General Fund Budget Reductions (Governor's Budget). The Administration requests 10 percent General Fund reductions that total $776,000 and are spread proportionally across several programs. The reductions by program are included in the table below (in $1,000):

Function	General Fund Base	Proposed Reduction	Proposed General Fund Budget	Special Fund Budget
Film Commission	$1,204,000	$120,000	$1,084,000	$11,000
Tourism	$1,047,000	$110,000	$937,000	$50,000,000
Small Business Loan Guarantee	$4,886,000	$481,000	$4,405,000	$1,954,000
Office of Military and Aerospace Support	$557,000	$55,000	$502,000	None
Technology, Trade and Commerce Agency Closure Costs	$70,000	$10,000	$60,000	None

Staff Comment: The Agency does indicate some reductions to output, processing times, etc., but none of these impacts seem unreasonable given the State's General Fund condition. Staff could argue at the margin that the reductions could be better allocated among the five programs; however, none of those concerns are acute and the Agency can request further budget adjustments next year to re-shift the reductions among programs if some impacts are disproportionally negative. Note – some of these programs are further discussed in the following agenda items; however, these reductions are separable from those issues.

Staff Recommendation: Approve these budget reductions.

Action: Approved reductions on a 2 – 0 vote with Senator Kehoe absent.

Discussion / Vote Issues:

3. **Infrastructure Bank: Staffing Augmentation (BCP #1).** The Administration requests an augmentation of $665,000 (special fund) and 7.0 positions for workload, administrative oversight, monitoring of bond and loan proceeds, and marketing. The Infrastructure Bank (I-Bank) provides financial assistance to local governmental entities for infrastructure projects such as roads, water systems, etc., at interest rate costs that are lower than financing that can otherwise be obtained from the private market. Base staffing is about 20.0 positions.

   Background / Detail: Initial funding of $200 million came from the General Fund in 1998-99 and 1999-2000. Since then the I-Bank has issued $100 million in revenue bonds to expand the program. The Administration indicates the I-Bank plans to issue $50 million in revenue bonds in 2008-09 to support additional financial assistance. The Administration indicates that workload grows as the cumulative amount of outstanding loans grows.

   LAO Recommendations: The Legislative Analyst reviewed the I-Bank in the *Analysis of the 2008-09 Budget Bill*. The LAO recommends that the budget request be approved, but reduced by $219,000 and two positions based on their analysis of workload. Additionally, the LAO recommends statutory change to ensure that local recipient projects achieve economic development and land use benefits, and recommends that the I-Bank improves its annual report to the Legislature.

   Staff Comment: The LAO recommendations related to better focusing loan criteria on economic development and land use benefits might be best addressed via policy committees. The staffing request is a combination of ongoing workload related to existing loans and new workload related to new loans. The cumulative existing-loan workload has grown over the years, suggesting the need for new staff, but the LAO indicates the level of new-loan workload is not expected to increase in 2008-09. The additional reporting requirements suggested by the LAO should assist the LAO and other interested parties in reviewing the I-Bank program in the future.

   The administrative cost of the I-Bank is supported by fees, interest earnings, and loan repayments - new staff will not impact the General Fund. According to the I-Bank, new staff will allow for adequate oversight of existing loans to reduce the risk of federal penalties and allow for new loans to support economic development and job creation. Approving new staff at the level suggested by the LAO (5.0 new positions) would be a 25 percent increase from base staffing.

   Staff Recommendation: Approve 5.0 new staff (as recommended by the LAO) and approve the LAO-recommended legislative reporting changes. (Do not adopt any LAO-proposed changes to grant criteria – leave those issues for policy committees).

   Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Kehoe absent.

4. **Small Business Loan Guarantee Program / Dormant Special Funds (BCP #3).** The Administration requests trailer bill language that would allow them to use a dormant Housing and Community Development (HCD) fund, with a balance of about $1.0 million, to fund ongoing BT&H administrative costs for the Small Business Loan Guarantee (SBLG) Program. SBLG administrative costs are about $360,000 annually to support 3.0 positions. Additionally, the Administration requests to transfer about $2.7 million in other dormant special funds to the General Fund and abolish those special funds.

   Background / Detail: The SBLG program was transferred to the BT&H Agency when the Technology, Trade and Commerce Agency was abolished five years ago. No administrative funding followed SBLG to BT&H; however; accumulated interest earnings in the Small Business Expansion Fund have been sufficient to support the three positions through 2007-08. Accumulated interest earning will have fallen to about $170,000 by the end of 2007-08.

   The option forwarded by the Administration is statutory change to allow use of a dormant HCD fund that has a sufficient balance (about $1.0 million) to support the SBLG administrative cost for 3 to 4 years, and to transfer to the General Fund about $2.7 million in other dormant special funds. <u>The dormant special funds actually tie to two expired General Fund programs</u>: (1) a $3.5 million direct loan program for child care facilities funded with one-time General Fund revenues in 1997-98; and (2) a $16 million loan guarantee program for child care facilities funded with one-time General Fund revenues in 2001-02. Due to budget challenges, $11 million in funding was reverted to the General Fund in 2001-02. The programs became inactive and the residual balance of $694,000 was transferred back to the General Fund in 2004-05. Since then, loans have been repaid and the special fund balance has grown to about $3.7 million with no active programs for expenditure. The dormant funds are now split into three funds: $2.5 million in the Child Care and Development Facilities Direct Loan Fund; $342,000 in the Child Care and Development Facilities Loan Guaranty Fund; and $1.0 million in the Child Care Loan Guaranty Fund Account in the Small Business Expansion Fund (this is the $1.0 million the Administration wants to use for ongoing general SBMA administrative costs).

   Staff Comment: As indicated in issue #2 on the prior page, the Administration also proposed a 10 percent budget reduction for the SBLG Program, which is a cut of $481,000. Funding for the program has fluctuated for several reasons over the past decade, and this program has been discussed by the Subcommittee in past years. One benefit for the program in recent years has been increased annual interest earnings in the trust fund, which had been around $700,000 a few years ago, but is estimated at $2.0 million in 2007-08. If the request to use the $1.0 million in the Child Care and Development Facilities Loan Account for SBLG is rejected, the funding for administration will have to be absorbed within ongoing interest earnings, which will reduce funds otherwise available to pay the 11 Financial Development Corporations (FDCs) for their administration of individual loan guarantees.

Staff Recommendation:

- Approve the requested $2.7 million transfer of dormant special funds to the General Fund, approve related statutory change, and direct Finance to score this General Fund benefit (this revenue gain was not scored in the January Budget).
- Reject the statutory change to redirect $1.0 million in dormant special funds to the SBLG program administration. Instead, transfer the $1.0 million in the Child Care Loan Guaranty Fund Account to the General Fund for a net General Fund gain of $1.0 million and adopt implementing trailer bill language, including language necessary to continue to back one outstanding loan guarantee.

Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Harman absent.

5. **Office of Military Base Retention and Reuse (Staff Issue).** The Subcommittee may want to hear from the BT&H Agency on the program that was called the Office of Military Base Retention and Reuse (OMBRR) when it was shifted to the Agency in 2004-05, but has since been renamed the Office of Military and Aerospace Support (OMAS). The OMBRR was originally housed at the former Technology, Trade and Commerce Agency, but was shifted to BT&H Agency in 2004-05 via a Finance Letter that shifted one position and $153,000 (General Fund). The budget documents at the time reveal the focus of the Office was to fight any military base closures in California during the federal Base Reallignment and Closure (BRAC) process, and to aid communities that suffered from base closures. Because there was a federal BRAC round in 2005, the Legislature augmented the Office by $350,000 in 2004-05 to add more resources to fight base closure.

   Staff Comment: The renamed Office of Military and Aerospace Support (OMAS) has a budget of $502,000 (General Fund) in 2008-09 after the Governor's 10 percent reduction. There are currently no future BRAC rounds scheduled and the BT&H Agency has redirected the resources to other related and unrelated priorities. The Agency indicates that in 2007-08: $200,000 was awarded as a grant to the non-profit California Space Authority (which promotes the space industry); $140,000 was spent on international trade efforts; and about $210,000 was shifted to the Governor's Office of Planning and Research (OPR). OPR indicates that they have assumed the role of the original base-closure/community-recovery function, as well as a broader range of military activities such as working with local communities and the military on land use and regulatory issues and promoting efforts to expand military activities in California.

   Given that the original need for the Office has diminished (because there are no upcoming BRAC rounds) and the BT&H Agency has instead implemented some new programs/activities in recent years that have not come before the Budget Committee, this may be an area to generate additional General Fund savings. If additional BRAC rounds are scheduled in the future, the Legislature may want to consider restoring or increasing funding for the activity at that time.

   Staff Recommendation: Eliminate the Office of Military Base Retention and Reuse (or Office of Military and Aerospace Support), and accordingly reduce the Agency budget by $502,000 General Fund.

   Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Harman absent.

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

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

The January Governor's Budget proposed expenditures of $2.1 million (no General Fund) and 2.0 positions – an increase of $32,000 and no change in positions. In a February 27, 2008, letter, the Department of Finance provided 30-day notification to the Joint Legislative Budget Committee (JLBC) of its request to augment the Board's 2007-08 budget by $255,000 to fund legal expenses related to the November 2007 COSCO BUSAN allision with the San Francisco/Oakland Bay Bridge – the JLBC did not object to this request. Additionally, an April Finance Letter requests $367,000 (primarily one-time) to fund expenses related to this same accident in 2008-09.

Issue Proposed for Discussion / Vote:

1. **Cosco Busan Allision (Finance Letter #1):** The Administration requests $367,000 (Board of Pilot Commissioners' Special Fund) and 0.5 positions (one-year limited-term) to support increased legal expenses and conduct a comprehensive review of current practices and processes related to incident review, navigation technology, and pilot fitness. These changes are necessary to address concerns related to the COSCO BUSAN allision with the Bay Bridge. In addition, increased funding will be provided for board member training, staff training, and development and implementation of a diversity recruitment and outreach program. As indicated above, related supplemental funding of $255,000 has already been approved for 2007-08.

   Detail / Background: In November 2007, the COSCO BUSAN tanker hit a tower of the Bay Bridge spilling oil into the bay. Press reports suggested the cause was pilot error and that the pilot had health issue that raised questions about his fitness for the job. Since the Board licenses pilots, questions have arose over the rigor of the Board's evaluation of pilots to test for health and fitness, and the Board's response to pilot misconduct charges.

   Staff Comment: The Subcommittee may want to hear a brief overview from the Board on their efforts since the COSCO BUSAN allision to respond to that incident and ensure appropriate oversight of pilots and use of all safety technologies.

   Staff Recommendation: Approve the budget request.

Action: Approved request on a 2 – 0 vote with Senator Harman absent.

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The total cost to build the entire system was most-recently estimated at $37 billion.

The Governor's proposed budget includes $5.2 million for the HSRA, of which $1.7 million is from the Public Transportation Account (PTA) and $3.5 million is a reimbursement. This represents a reduction of $15.9 million from 2007-08; however, the current year funding includes one-time Clean Air and Transportation Improvement bond funding of $15.6 million that are not available to funding the HSRA in 2008-09. No change is proposed year-over-year to the number of positions which are budgeted at 9.3 positions.

Issue Proposed for Discussion:

1. **November 2008 Bond Vote and 2008-09 HSRA Budget.** The Governor's proposed budget funds state staff but does not provide funding for the contract work that is currently underway. In addition, the Governor supports a High Speed Rail bond for the November ballot. Staff understands that Assembly Bill 3034 (Galgiani) is supported by the Administration and would make changes to the bond act currently on the November ballot. AB 3034 passed the Assembly Transportation Committee on a 10-0 vote on April 14. Should the voters approve a bond, the proceeds will ultimately be available to pay the state's portion of the planning and construction costs.

   LAO Comment: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst points out that if there is no funding for the continuing contract work in the budget, the work is likely to stop at the end of the current year and would not resume until after the bond funds are available. The interruption in contract work would likely result in higher costs once the projects start again. In addition, the LAO notes that without the continuation of the contract work in the budget year, a portion of the $3.5 million in reimbursements from the City of Anaheim may not materialize either.

   Budget Alternatives from the HSRA: In addition to the Governor's Budget, the HSRA has presented two alternative funding proposals:

   - <u>Augment Funding by $6.0 million</u> (Public Transportation Account) to match the funding offered by the City of Anaheim and continue base project management activities such as working on design standards, working with the Federal Railroad Administration on the development of high-speed train regulations, providing day-to-day management of the regional work. Preliminary design work on the individual corridors (except Los Angeles – Anaheim) would stop at the end of 2007-08 and restart after the November election if the bond is approved.

- Augment Funding by $17.3 million (Public Transportation Account) to perform the activities described in the first bullet, plus continue design work on those corridors where work began in 2007-08 with Prop 116 bond funds. The $17.3 million would be sufficient to fully fund these activities through the November election.

In either case, the HSRA would also request an appropriation to expend $34.0 million in the Safe, Reliable High-Speed Train Bond Act for the 21st Century bond funds in 2008-09 (contingent on voter approval), and also use bond funds to repay any Public Transportation Account funds expended in 2008-09 up to the period of bond approval.

Staff Comment: The fate of the high speed rail project seems highly dependent on the will of the voters at the November 2008 election. Without approval of the bond, there would be no funding of the magnitude necessary to begin significant implementation of the project. However, the Legislature in the past two years has provided about $35 million to perform some *relatively* lower-cost early development activities to speed the completion of the project and avoid some construction inflation costs. Given this precedent, the Legislature may want to consider an augmentation to the Governor's Budget to provide "bridge" funding between this fiscal year and the November 2008 election on the bond.

The Subcommittee may want to hear from the HSRA, the Department of Finance, and the LAO on alternative budget options for 2008-09. At a recent Assembly budget hearing, the Administration indicated there may be a May Revision Finance Letter for HSRA, so it may be best to hold this budget open until the additional information has been presented.

Staff Recommendation: Hold open for the May Revision.

Action: Held open budget. Requested addition detail from the HSRA on their requested $17.3 million augmentation above the amount in the Governor's Budget.

2600 California Transportation Commission

The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

The January Governor's Budget proposes expenditures of $3.5 million and 22.0 positions for the administration of the CTC (no General Fund) – an increase of $99,000 and no change in positions. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement bond funds (originally authorized by voters in 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal and two April Finance Letters for the CTC.

Issues Proposed for Vote-Only:

1. **Funding for New CTC Commissioners (BCP #5).** The Administration requests $37,000 (special funds) to support the addition of two Commissioners as mandated by AB 1672 (Ch 717, St of 2007). Prior to AB 1672, the CTC had nine voting Commissioners all appointed by the Governor. With AB 1672, the CTC will have two additional voting Commissioners, with one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. The new funding is requested to cover the $100 per diem and travel/lodging expenses of the new Commissioners, as well as related Administrative costs at the CTC.

Action: Approved request on a 2 – 1 vote with Senator Harman voting no.

2. **Proposition 1B Air Quality Consultant (April Finance Letter #1):** The Administration requests a net reduction of $30,000 (Proposition 1B bond funds), the elimination of one State position, and budget authority to contract out for air quality and emissions modeling experts in order to fulfill requirements for the Trade Corridor Investment Fund (TCIF) program. The CTC indicates that contract work is more efficient than State staff because the air-quality workload is periodic and would not support a full-time position.

Action: Approved request on a 3 – 0 vote.

Staff Recommendation: Approve these requests.

Issues proposed for Discussion / Vote:

3. **High-Occupancy-Toll Lane (HOT Lane) Review (April Finance Letter #4):** The Administration requests an increase of $100,000 (State Highway Account) in 2008-09, and the same amount in 2009-10, to contract out with a financial consultant to assist in the review of the eligibility of HOT Lane applications pursuant to the requirements of AB 1467 (Ch 32, St 2006). AB 1467 sets out procedures that could allow up to four new HOT lanes in the state.

   Staff Comment: A CTC review of fiscal assumptions for HOT lanes seems reasonable under the general requirements of AB 1467; however, it is uncertain how many project applications the CTC will receive for this program. Given that this workload may not materialize, it may be advisable to add budget bill language to specify that the funds can only be used for this purpose and will revert if unexpended.

   Staff Recommendation: Approve the request, but add budget bill language to specify the funds are only available for AB 1467 and shall revert if unexpended.

   Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Kehoe absent.

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

The Governor proposes total expenditures of $13.887 billion ($1.485 billion General Fund) and 22,430.0 positions, a decrease of $262.7 million (2 percent) and an increase of 148.0 positions relative to the adjusted 2007-08 budget. The decrease is primarily due to the receipt of $460 million in unanticipated one-time federal funds in 2007-08.

The 2007 Budget Act provided about $1.3 billion in General Fund relief from transportation in both the Caltrans Budget and the Special Transportation Program budget. The General Fund benefit was due to mass transit funds being shifted to mass transportation programs that would otherwise have been supported by the General Fund. Statutory provisions provide that about half of this General Fund relief is ongoing, and the Governor's Budget for 2008-09 includes about $600 million in transportation General-Fund relief – consistent with the statutory structure adopted last year. This issue is further discussed in the Special Transportation Program budget item at the end of this agenda.

Issues proposed for Consent / Vote-Only:
(A consolidated staff recommendation on these issues is on page 15.)

1. **Scour Evaluations of Local Bridges (BCP #2).** The Administration requests $371,000 ($327,000 federal funds and $44,000 State Highway Account) and permanent extension of 3.0 limited-term positions to continue the federally mandated bridge scour evaluations of locally-owned bridges. "Bridge Scour" is the erosion of soil surrounding a bridge foundation caused by water flow that can result in bridge failure if undetected and uncorrected. In 2006-07, 9.0 positions (2-year limited-term) were approved for this activity, and Caltrans now indicates that the one-time workload has been accomplished and the ongoing need is for 3.0 positions.

   Action: Approved request on a 3 – 0 vote.

2. **Public Safety Radio (BCP #4).** The Department requests funding of $32.2 million over five years ($3.5 million is requested for 2008-09 – all State Highway Account) to modernize Caltran's radio infrastructure in the 3 Districts that are currently still operating with the legacy system (Districts 1 (North Coast), District 2 (North East), and District 5 (Central Coast)). The completion of this radio modernization was discussed last year, and the Subcommittee approved a total of $19.6 million over five years to convert the low band radio systems concentrated in the mountainous regions of District 10 (east of Stockton). The Department indicates that most Caltrans Districts (3, 4, 6, 7, 8, 9, 11, and 12) currently operate on high band, but three districts (1, 2, 5, and 10) still operating on low band. This request is consistent

with the cost estimates the Department provided to the Committee last year. Once implemented, Caltrans will have improved reliability and coverage for operability and increased operability with the California Highway Patrol and other emergency responders.

Action: Approved request on a 3 – 0 vote.

3. **District 3 Office Building Relocations (BCP #9).** The Administration requests $1.6 million (one-time State Highway Account) for the relocation and moving expenses and first-year maintenance and operations of the new District 3 headquarters office building in Marysville. The Legislature approved the construction of this new state-owned facility in 2002-03. The BCP indicates that another BCP will be submitted next year for the ongoing maintenance and operations cost. The new building will consolidate 776 department employees who are currently spread across five buildings. Because the Department of General Services will assume responsibility for maintenance and operations at the new facility, a total of 7.0 Caltrans maintenance and operations staff are eliminated as part of this request.

Action: Approved request on a 3 – 0 vote.

4. **Toll-Bridge Maintenance (BCP #14).** The Administration requests no net change in expenditures, but a $7.1 million increase in reimbursement authority and a $7.1 million reduction in State Highway Account authority related to the maintenance of toll bridges, toll facilities, security surveillance, and utility costs for toll bridges in the San Francisco Bay Area (excluding the Golden Gate Bridge). This request is consistent with existing statute, as modified by AB 144 (Ch 71, St 2005), that transferred fiscal responsibility for the maintenance of these toll bridges from Caltrans to the Bay Area Toll Authority (BATA).

Action: Approved request on a 3 – 0 vote.

5. **Race-Neutral Measures Program (BCP #28).** The Administration requests $179,000 (State Highway Account) and 2.0 positions (two-year limited-term) to implement the federally-mandated Disadvantaged Business Enterprise (DBE) Race-Neutral Measures Program. Federal law requires states that received federal aid to implement a DBE Program that tracks utilization and evaluates any disparities in utilization of women and minority-owned businesses. If race-neutral measures are not effective in eliminating identified disparities then, and only then, the Department is required to use contract goals to address remaining disparities. These positions will assist with implementing new outreach to DBE and tracking success using the race-neutral measures. For context, in May 2005, the Ninth Circuit Court of Appeals held that before a state can use individual contract goals or any race-conscious measures in its transportation contracting program, the same must possess statistical evidence of discrimination – this decision discontinued Caltrans' race-conscience procurement, as least for a period of time. If DBE efforts are successful, the risk of federal sanctions will be diminished and contract savings could result from more contractors participating in Caltrans work.

Action: Approved request on a 3 – 0 vote.

6. **San Diego I-15 Managed Traffic Lanes (BCP #30).** The Administration requests $809,000 ($573,000 one-time – State Highway Account) and 8.0 positions (ongoing) to set up and continue operation of traffic control operations for the opening of the first of three segments of the Managed-Lanes Project on the I-15. When fully completed in 2013, the project will include 17 miles of movable barriers to alternate the direction of certain lanes to better accommodate commute traffic.

   Action: Approved request on a 3 – 0 vote.

7. **Roadside Rest Areas (BCP #36).** The Administration requests $2.6 million (ongoing - State Highway Account) to address the increasing costs for janitorial-maintenance service contracts for the 87 Safety Roadside Rest Areas (SRRAs) that the Department operates. Historically, Caltrans spends about $10 million to $11 million annually maintaining these facilities, but the cost has increased over the past few years to approximately $13.5 million. Caltrans indicates that if the request is denied they will implement longer seasonal closures and otherwise reduce hours of service at SRRAs.

   Action: Approved request on a 3 – 0 vote.

8. **Non-Bond Rail Issues (April Finance Letters #6, #15, and #16).** The Administration submitted three Finance Letters related to operations and maintenance of the intercity passenger rail service that Caltrans operates in cooperation with Amtrak:
   - <u>Finance Letter #6 – Amtrak Operating Costs</u> requests $6.6 million (Public Transportation Account) to fund Amtrak's increased operations and fuel costs and maintain the current levels of service. Last year a one-time BCP was approved for $6.5 million. This request would provide an ongoing increase at the $6.6 million level.
   - <u>Part of Finance Letter #15 – Rail Heavy Equipment Overhall</u> requests a one-time augmentation of $3.5 million (Public Transportation Account), which when added to base funding of $5.8 million, will fund the 2008-09 cost of required maintenance for rail passenger cars and locomotives. The Administration considers this a technical correction; because a 2002-03 Finance Letter established the practice of base funding at $5.8 million and annual one-time budget adjustments to tie to each year's maintenance inventory. This year's Governor's Budget inadvertently excluded the one-time adjustment, so that adjustment of $3.5 million is requested with this Finance Letter.
   - <u>Finance Letter #16 – Rail Heavy Equipment Overhall</u> requests a reappropriation of $5.6 million which is the unexpended portion of funds originally appropriated in 2005-06 for rail heavy equipment overhall and encumbered by a contract with a vendor. However, the vendor ceased work in February 2008 and Caltrans terminated the contract for cause. Caltrans requests a reappropriation of the unspent funds so it can enter a contract with a new vendor to complete the work.

   <u>The LAO has some suggested Supplemental Report Language to improve disclosure of ongoing budget adjustments and program expenditures in this area</u>.

   Action: Approved request plus report language on a 2 – 1 vote with Senator Harman voting no.

9. **State Personnel Board Mandates (BCPs # 5, #10, & #11)**. The Administration submitted three requests totaling a net budget reduction of $1.7 million (State Highway Account) and adding 75.5 positions (primarily funded with redirected contract funding) related to decisions or mandates from the State Personnel Board (SPB).

   Background / Detail: The specific Administration proposals are as follows:

   - BCP #5 requests a net budget reduction of $2.2 million (State Highway Account), a shift of $3.9 million in contract expenditures to state staff, and 64 new positions to comply with a April 2007 SPB decision that required the state to perform more vehicle and equipment maintenance in-house instead of contracting out. State law allows contracting out to address backlogs and for remote locations within the state; however Caltrans increased contracting after the 2003-04 hiring freeze and cut 64 equipment maintenance positions. SPB found this expanded level of contracting was not allowable. In this area, State staff are less expensive than contracting, so the proposal reflects net savings of $2.2 million.
   - BCP #10 requests $323,000 (State Highway Account) and 3 new positions to meet the Equal Employment Opportunity (EEO) directives of the SPB and state and federal mandates. Caltrans has received poor rating by SPB in three consecutive years for not completing discrimination investigations within 180 days. The number of discrimination investigations has increased from 89 in 2003-04 to 173 in 2006-07. This request would also improve EEO training. Because Caltrans paid over $1.6 million in discrimination-related legal cases in 2004 and 2005, this request may provide some cost avoidance to partially offset its price.
   - BCP #11 requests a net budget increase of $176,00 (State Highway Account), a shift of $233,00 in contract expenditures to state staff, and 8.5 new positions to comply with a SPB decision that required Caltrans to perform facility maintenance and custodial work in Districts 1 (North Coast) and District 9 (Eastern Sierra Nevada) in-house instead of contracting out. State law allows contracting out to address backlogs and for remote locations within the state; however unions have asserted that Caltrans is inappropriately applying the exemption. Since the Department of General Services does not provide maintenance and custodial services in these locations, Caltrans would internally staff the activity. In this area, State staff are more expensive than contracting, so the proposal reflects net costs of $176,000.

Action: Approved request on a 2 – 1 vote with Senator Harman voting no.

Staff Recommendation: Approve all the budget requests listed in the consent / vote-only section, including the LAO-suggested Supplemental Report Language (SRL) for intercity rail equipment overhall (Issue #8).

Discussion and/or Vote Issues

10. **Big Picture: Transportation Funding Shortfall (Informational Issue)**. According to a January 2007 LAO study, California governments (State and local) spent approximately $20 billion on transportation in 2005-06 – with about $12.0 billion flowing through the Caltrans budget. Proposition 1B bond funds have provided additional funds since then and California transportation spending in 2008-09 is estimated by the Administration at about $26.0 billion – with about $13.8 billion flowing through the Caltrans budget. While Proposition 1B and Proposition 42 have increased transportation revenues, these revenue increases have not kept pace with construction inflation – the Administration indicates the California Highway Construction Cost Index compiled by Caltrans increased by 200 percent over the 1994 to 2005 period. While Prop 42 and Prop 1B both addressed highway capacity and local streets and roads issues, the two provided only minimal relief for highway operations and rehabilitation.

    Sufficiency of Transportation Funding: The Legislature provided a major one-time increase in State transportation funding with the approval of SB 1266 (Statutes of 2006) which put Proposition 1B on the November 2006 ballot. Proposition 1B has provided a major funding increase for traffic congestion relief projects over the next half decade; however, highway maintenance and rehabilitation funding still faces major constraints. In the 2007 Annual Report to the Legislature, the CTC indicates that the State can "barely afford half of the state's major rehabilitation needs" and that "congestion relief funding remains uncertain long term, especially after the bond funds are fully allocated in the next five years."

    At the federal level, the National Surface Transportation Policy and Revenue Study Commission issued a report in January 2008 that suggests the nation is only funding about 40 percent of the total annual transportation need of $225 billion. The Commission proposed that the 18.4 cents per gallon federal gasoline excise tax be increased 5 cents to 8 cents annually for five years and then indexed to inflation afterward to help fix the infrastructure, expand public transit and highways as well as broaden railway and rural access.

    In California, local governments are also exploring options to increase revenues for transportation. According to the their January 2007 Annual Report, the San Francisco Bay Area's Metropolitan Transportation Commission is supporting a 10-cent per gallon gasoline excise tax increase in their region to fund local road maintenance, and will seek legislation to authorize a ballot measure. According to a January 9, 2007, Los Angeles Times article, the Metropolitan Transportation Authority has applied for a federal grant to convert existing carpool lanes on three Los Angeles area freeways to high-occupancy toll lanes with congestion pricing.

Highway Maintenance, Rehabilitation, and Capacity Enhancement: To understand the management of highway infrastructure, it is helpful to think of three levels of highway expenditures.

- **Highway Maintenance** – maintenance includes sealing cracks in payment, thin pavement overlays, painting of iron bridge structures, and cleaning of drains and filter traps. The Legislature amended statute to require a bi-annual Maintenance Plan from the Administration starting in 2005. The 2007 plan indicates that every $1 spend on maintenance reduces future rehabilitation work by $5. The Legislature has approved several increases in the maintenance budget over the past four years, which the Administration indicates is sufficient to keep the maintenance backlog from growing. The report indicates that to achieve the cost-effective level of maintenance within 5 years, an additional $589 million would have to be expended each year until the maintenance backlog is eliminated. <u>Therefore, a *one-time* funding increase of $2.9 billion is needed (spread over 5 or more years) to eliminate the maintenance backlog.</u>
- **Highway Rehabilitation** – this category is the State Highway Operations and Protection Program (SHOPP) and funds major rehabilitation, replacement, and reconstruction of pavement, bridges, culverts, and landscaping. Statue also requires bi-annual SHOPP plans and the 2007 plan indicates that the annual rehabilitation need is $5.5 billion, but base funding only provides about $2.5 billion annually. <u>Therefore, an *on-going* funding increase of $3 billion is needed to achieve the level of SHOPP expenditures the CTC believes is prudent.</u>
- **Highway Traffic Congestion Relief (Capacity Enhancement) –** In addition to maintaining existing capacity on the State's highways, the State needs to add additional lane miles to accommodate the growing population and maintain or reduce the existing level of traffic congestion. The funding deficit for congestion relief is the hardest to define, but past CTC and federal studies would suggest it could annually be in the magnitude of $5 billion. <u>Therefore, upon the expenditure of Prop 1B bond funds, an on-going increase of approximately $5 billion is needed to continue to address traffic congestion.</u>

Need for Solutions: The funding provided by Prop 1B has mitigated some of the funding deficiencies listed above. Prop 1B provides $500 million for highway rehabilitation (most of this funding is expended in 2007-08) and over $10 billion for highway congestion relief. In the Governor's Budget Summary, the Administration recognizes that current funding is insufficient to adequately and effectively operate and preserve the State Highway System, and indicates it will work with interested parties and the Legislature to develop more information about the scope of the problem and long-term solutions.

Administration Short-term Solutions: While the Administration is indicating a need for long-term solutions, they are moving forward with the short-term solution of additional borrowing. <u>Caltrans has proposed a plan to the CTC to issue $1.9 billion</u>

in Grant Anticipation Revenue Vehicle (GARVEE) bonds through 2012-13 to fund additional SHOPP projects ($141 million is proposed in 2008-09). GARVEE bonds are a federal program that allows states to issue revenue bonds backed by future federal highway revenue – so GARVEEs do not provide additional revenue, rather they speed up the receipt of federal revenue. The Legislature has previously approved the use of GARVEEs, and they have been used in the past for congestion relief projects; however, this would be the first time they are used for SHOPP purposes. Once GARVEEs are issued, a portion of future federal revenue is expended for debt service – reducing the amount otherwise available for new transportation expenditures.

LAO Long-term Solutions: In the *Analysis of the 2008-09 Budget Bill*, the Legislative Analyst outlines the recent history of transportation funding and challenges for the future (http://www.lao.ca.gov/laoapp/PubDetails.aspx?id=1775). The LAO recommends the Legislature explore the following three options in deciding how to adequately fund highway maintenance and rehabilitation needs: (1) raise the state gas tax by at least 10 cents and index it for inflation; (2) consider taxing alternative fuels; and (3) explore mileage-based fees and additional toll roads.

Focus on Bridges: On August 1, 2007, the Interstate 35W bridge across the Mississippi River in Minneapolis, Minnesota unexpectedly collapsed. Since this is the first regular subcommittee hearing with Caltrans since that event, the Subcommittee may want to hear from the Department on the status of California bridges. As background, there are more than 12,000 State-owned bridges plus about 11,500 locally-owned bridges in California. Caltrans recently reported that 1620 State-owned bridges and 1950 locally-owned bridges are classified by the federal definition of "structurally deficient." However, Caltrans indicates that none of these bridges are deemed unsafe for the traveling public and that a "structurally deficient" rating can occur if the bridge shoulder is too narrow, or is overdue for painting. As additional context, the State has spent billions of dollars over the past decade to seismically retrofit bridges: the State phase 2 Seismic Retrofit Program initiated after the 1994 Northridge earthquake is 99 percent complete (1,148 of 1,155 bridges complete); and the Local Bridge Seismic Retrofit Program is 57 percent complete (709 or 1,235 bridges complete). However Proposition 1B includes $125 million to match up to $1.1 billion in federal funds to complete these local projects.

Suggested Questions: The Subcommittee may want to hear from the LAO, Caltrans, the CTC, and the public on the following:

1. ***Where are transportation shortages the most acute?***
2. ***What alternatives for new revenue should be considered to address highway rehabilitation and other transportation needs?***
3. ***What is the current Administration strategy for the use of GARVEE bonds for SHOPP and STIP?***
4. ***What is an appropriate level of GARVEE debt – should more GARVEEs be issued to accelerate additional SHOPP projects?***

5. What is Caltrans doing to ensure the safety of bridges in California?

Staff Comment: Given the current constraints on transportation funds, GARVEE bonds are a reasonable method to move important projects forward that would otherwise be delayed. However, the need for GARVEEs in the SHOPP program does further highlight the need for additional transportation revenues in the future. The traditional sources of new revenue are increasing the gasoline tax, road tolls (either of a state-managed facility or a facility leased to a private operator), or use of more General Fund or other non-transportation-associated revenues. The need for the State to act increases over time as Proposition 1B is expended and to the degree the federal government does not step up to address the nation's infrastructure needs when the federal transportation act is reauthorized in 2009.

Staff Recommendation: This is an informational issue, and no action is required. However, some related budget requests are included in the issue that follows.

Action: Informational only.

11. **Budget Requests to Mitigate the Transportation Funding Shortfall (Finance Letters #10 and #13)**. The Administration submitted two budget proposals to partially address transportation funding shortfalls discussed in the prior issue through pavement investment efficiencies and through additional borrowing:

- Finance Letter #10 – Pavement Management Program requests $4.2 million in 2008-09, $6.6 million in 2009-10, and $8.8 million in 2010-11 to implement a new State Highway Pavement Management Program. The majority of this three-year request would fund a pavement structure inventory for the entire pavement network using ground penetration radar with pavement coring and identification. While this $19.6 million three year program would not directly repair any damaged pavement, Caltrans estimates that cumulative savings over the following 5-year period will be $118 million, resulting in a average benefit-cost ratio of 4.4 to 1. The savings would occur, because the improved data would allow better forecasting of pavement deficiencies and better investment decisions.

Action: Approved request on a 2 – 1 vote with Senator Harman voting no.

- Finance Letter # 13 – GARVEE Bonds requests the establishment of budget authority for the amount of total debt service and related financing costs associated with the proposed Grant Anticipation Revenue Vehicles (GARVEE) issuance in 2008-09. The amount requested is $181 million (federal funds) and would cover all principal and interest debt payments through full repayment in 2019-20. Of the $181 million, $141 million represents principal and the remainder interest. The use of GARVEE bonds accelerates projects that would otherwise be delayed because of insufficient transportations funds, saving construction-inflation costs, and delivering the project faster to travelers. Existing Statute allows the California Transportation Commission to authorize GARVEE projects up to a level where GARVEE debt service reaches 15 percent of annual federal funding. Language similar to the proposed budget bill language, was adopted when GARVEEs were last issued in 2004-05.

Action: Approved request on a 3 – 0 vote.

Suggested Questions: The Subcommittee may want to hear from Caltrans and the LAO on the following:

1. ***What is the current system Caltrans uses to prioritize pavement projects?***
2. ***What reforms to pavement management are proposed generally, and specifically with FL#10?***
3. ***Is the technology requested for FL#10 (i.e. "ground-penetration radar") proven or are there technological and cost risks to this proposal?***
4. ***What type of highway projects would benefit from the GARVEE funding proposed for 2008-09?***

Staff Recommendation: Approve these requests.

12. Big Picture: Environmental Mitigation Efforts (Informational). In most years, Caltrans presents budget requests related to equipment retrofit, stormwater management, and other initiatives to mitigate environmental impacts. The Subcommittee in the recent past has also discussed the Department's use of alternative fuels. To put a big picture view of the various efforts which have been individually discussed, some of the major *ongoing* components are presented here:

- New Construction: Employing stormwater best-management-practices into new construction projects (State Transportation Improvement Program (STIP) and State Highway Operations and Protection Program (SHOPP)) totals about 4 to 5 percent of the overall project costs (around $380 million annually).
- Maintenance of Stormwater Mitigation: The budget separately appropriates $94 million in 2008-09 for the maintenance of stormwater systems.
- Use of Recycled Tire Rubber in Pavement: Caltrans purchased rubberized hot mixed asphalt in 2007 that included approximately 3.1 million recycled tires.
- Litter Pickup: Caltrans currently spends $55 million annually on litter pickup and an additional $7 million is requested for 2008-09.
- Equipment Retrofit: Over $15 million is budgeted for 2008-09 to retrofit equipment to reduce air pollution.
- Environmental Enhancement and Mitigation Program (EEMP): The Governor's Budget includes $10 million in 2008-09 consistent with the historic funding level.
- Alternative Fuel Usage: Caltrans reported that its alternative fuel usage increased 72 percent in the March 2007 through October 2007 period relative to the prior 8-month period. Overall, this is about 1 percent of total fuel usage.

Staff Comment: The Subcommittee may want to hear from Caltrans on the ongoing environmental efforts outlined above, or any additional ongoing efforts Caltrans wants to describe. Budget Change Proposals that relate to these issues are included in the next issue.

Staff Recommendation: This is an informational issue, and no action is required. However, some related budget requests are included in the issue that follows.

Action: Information only – but skipped issue due to time constraints.

13. **Budget Requests Related to Environmental Mitigation (BCPs #3, #8, #16, & #35)**. The Administration submitted four budget requests related to environmental issues.

- BCP #3 – Fuel Cost Increase / Alternative Fuels requests $13.5 million (permanent, State Highway Account) to bring fuel funding from a base of $2.04 per gallon to $2.97 per gallon. Caltrans estimates it will use approximately 13.5 million gallons of fuel in 2008-09 and, recently, alternative fuels have comprised about 1 percent of total usage.
- BCP #8 – Equipment Replacement / Retrofit requests $15.1 million ($444,000 ongoing, State Highway Account) to fund equipment replacement and retrofit to comply with California Air Resources Board (ARB) air quality mandates. The mandates involve In-Use Off-Road Diesel Engine Fleet Requirements (affecting loaders, graders, crawler tractors, and backhoes) and Large Spark Ignition (forklifts). Both mandates are to reduce nitrous oxide (NOx) and diesel particulate matter (PM) from exhaust emissions.
- BCP #16 – Clean Renewable Energy Bonds (CREBs) requests $20 million (bond funds) to fund 70 photovoltaic (solar-generated electricity) projects on Caltrans building facilities. The bonds would be repaid over 16 years with annual debt service payments of $1.2 million, with the funding for the debt service payments coming from utility savings that would result from the installation of the photovoltaic systems on department facilities. CREBs are authorized as part of the federal Tax Incentives Act of 2005, and provide qualified borrowers the ability to borrow at a 0% interest rate.
- BCP #35 – Litter Cleanup requests $5 million (permanent, State Highway Account) to contract with the California Department of Corrections and Rehabilitation (CDCR) or other agencies to perform litter clean up and $2 million (three-year limited-term, State Highway Account) to fund an anti-litter media campaign.

Suggested Questions: The Subcommittee may want to hear from the Caltrans and the LAO on the following:

1. ***What is Caltrans' goal for alternative fuel usage in 2008-09, and how is that incorporated into the BCP #3 request? Given recent gasoline prices, is funding at $2.97 per gallon sufficient?***
2. ***BCP #16 indicates that the Department is still evaluating options for construction and installation of the photovoltaic systems – has the Department since determined how construction would be accomplished?***
3. ***Statewide public media campaigns in California always face the challenge of high cost and difficulty measuring effectiveness (how does awareness translate into action). How does Caltrans justify this expense?***
4. ***BCP #35 implies that parolees are not currently utilized in California for litter cleanup. If this is untested in California in recent times, should this be a pilot program?***

Staff Comments: The Subcommittee may want to consider increasing funding for fuel costs if $2.97 per gallon seems unlikely for 2008-09. To the extent Caltrans has to absorb the cost of gasoline prices in excess of $2.97 they will likely do so by reducing litter clean-up, maintenance of rest stops, or other maintenance activities. The other point to note is that the Subcommittee has rejected other new media campaigns this year due to the budget situation, and the Subcommittee may want to consider similar action here with respect to the BCP #35 request for a new $2.0 million anti-littering campaign.

Recommendations:

- Keep open the fuel cost request (BCP #3) to adjust the funding to revised gasoline price forecasts (the Department of Finance will have a new estimate of general gasoline prices with the May Revision).
- Reject the $2.0 million requested for a new anti-litter media campaign.
- Approve the $5.0 million requested for litter pickup, but add legislative reporting to the proposed budget bill language that requires Caltrans to report to the Department of Finance.
- Approve all the other requests included in this issue

Action: Approved Staff Recommendation on a 2 – 1 vote with Senator Harman voting no. Added an enforcement component to the report requirement.

14. Proposition 1B Local Assistance and Capital Outlay (Governor's Budget and Finance Letter #12). This issue discusses the Local Assistance and Capital Outlay components of Prop 1B – State Operations is discussed in the following issue. The 2007 Budget Act and associated legislation appropriated a total of $4.2 billion, or 21 percent, of total Proposition 1B funds. The Governor's budget requests $4.67 billion, or 23 percent, of total Prop 1B funds for the 2008-09. Amounts (dollars in millions) are as follows:

Proposition 1B Category	Total 1B Amount	2007-08 Budget	Allocations through April 10 '08	2008-09 Proposed Budget	Budget Entity
Categories with already-selected projects:					
Corridor Mobility Improvement Account (CMIA)	$4,500	$608	$615	$1,547	Caltrans
State Transportation Improvement Program (STIP)	$2,000	$727	$667	$1,187	Caltrans
State Highway Operations and Preservation Program (SHOPP)	$500	$280	$192	$94	Caltrans
State Route 99 Improvements	$1,000	$14	$14	$108	Caltrans
Local Bridge Seismic Retrofit	$125	$14	$14	$21	Caltrans
Categories with formula-based allocations:					
Local Streets & Roads	$2,000	$950	$514	$0.1	Shared Revenues
Transit	$3,600	$600	$393	$350	State Transit Assistance
Categories with guidelines / project section underway:					
Intercity Rail	$400	$188	$46	$73	Caltrans
Grade Separations	$250	$123	$0	$65	Caltrans
Traffic-Light Synchronization	$250	$123	$0	$122	Caltrans
Categories outside CTC / Caltrans:					
School Bus Retrofit*	$200	$193	$0	Fully appropriated in 2007	Air Res. Board
Trade Infrastructure Air Quality*	$1,000	$250	$25	$250	Air Res. Board
Port Security	$100	$41	$40	$58	Office of Emerg. Svc.
Transit Security	$1,000	$101	$0	$102	Office of Emerg. Svc.
Categories with 2008-09 implementation (no 2007 Budget Act appropriation):					
Trade Infrastructure	$2,000	$0	$0	$500	Caltrans
State/Local Partnership	$1,000	$0	$0	$200	Caltrans
TOTAL	**$19,925**	**$4,213**	**$2,520**	**$4,675**	

* These Prop 1B Appropriations are heard in Subcommittee #2

To date, Caltrans indicates that about $2.5 billion has been allocated (or made available for expenditure) to project sponsors. Note, when the Subcommittee discussed allocations at a special December 2007 hearing, a total of about $600 million had been allocated.

Adjustments to 2007 Budget Act Appropriations: The January Governor's Budget and April Finance Letter #12 make adjustments to planned expenditures for 2007-08. The January Budget shifts $492 million in Proposition 1B funds appropriated for 2007-08 to 2008-09. Caltrans indicates that this is primarily a technical adjustment with most of the CTC project allocations still occurring in 2007-08, but construction contracts taking some additional months to execute and therefore delaying "expenditure" of the funds to 2008-09. April Finance Letter #12 indicates that the Director of Finance has used authority in last year's Budget Act to augment the State Transportation Improvement Program (STIP) Proposition 1B appropriation by $181 million to allow the CTC to make additional STIP allocations in 2007-08. The Finance Letter requests to reduce the STIP Prop 1B appropriation for 2008-09 by the same amount, because the capital and local assistance STIP bond funds are fully allocated over these two fiscal years. Staff also understands that the Corridor Mobility Improvement Account was augmented by $126 million under this same authority.

Requested funding for 2008-09: Last year, the Legislature established funding mechanisms for Prop 1B programs that the Administration generally continues in the proposed 2008-09 budget bill. For example, for bond programs with adopted projects, the appropriation is based on planned project allocations; however, authority is provided to the Director of Finance to augment the appropriation by up to 25-percent of the 2009-10 expenditure amount if some project allocations are accelerated from 2009-10 to 2008-09. The majority of Prop 1B programs administered in the transportation area (excluding Air Resource Board and Office of Emergency Services programs) have established guidelines and funding mechanisms and do not appear to present any controversies relative to 2008-09 budget funding. There are five bond programs with issues that the Subcommittee may want to discuss and consider. The specific programs and issues are detailed in the suggested questions below.

Suggested Questions: The Subcommittee may want to hear from the LAO, Caltrans, the CTC, and the public on the following:

1. ***What progress has the Administration made in Prop 1B staffing and project allocations since the December 2007 hearing?***
2. ***With the slowing private-sector construction market, Caltrans is receiving more bidders per project resulting in contracts that are below the engineer's estimates – what does this suggest for the bond program and the desirability of moving bond projects quickly?***

3. ***What is the Administration's plan for the <u>Intercity Rail</u> component, relative to a Department of Finance Audit that raised questions about the level of need for new rolling stock? When will Finance allow Caltrans to move forward on rolling stock purchases and track improvements (budget bill language requested by the Administration and approved last year holds expenditure of the funds until Finance completes an audit and reaches agreement with Caltrans on the need for new rolling stock)?***
4. ***Is the $950 million appropriated in 2007-08 for <u>Local Streets and Roads</u> sufficient authority to cover both 2007-08 and 2008-09 expenditures (no new funding is proposed in 2008-09, and it is anticipated more funding would be appropriated in 2009-10)?***
5. ***What does the LAO, and other interested parties, recommend with regards to establishing the time period for the formula allocation of <u>Transit</u> component (current law specifies that the 2007 Budget Act appropriation of $600 million be allocated to transit agencies based on revenue and ridership data from the 2004-05 through 2006-07 years, but does not specify the data period for the ongoing program)? Is the requested allocation of $350 million for 2008-09 sufficient given that this is a $3.6 billion program?***
6. ***What is the appropriate funding level for the <u>Trade Corridor Improvement Program</u>, since the California Transportation Commission has adopted a program of projects on April 9, and the Governor's Budget just included a placeholder level of funding for this program?***
7. ***What is the LAO recommendation for the <u>State Local Partnership Program?</u> (Note: $200 million in funding is proposed and the amount of funding does not appear to be controversial. The LAO recommends the addition of budget bill language to tie expenditure of program revenue to the enactment of implementing statute via a future policy bill.)***

Staff Comment: As indicated, most Prop 1B appropriations for 2008-09 appear to be non-controversial. A few programs may merit further analysis due to upcoming audit reports and to give related policy bills some additional time to work through committees (<u>Intercity Rail</u> and <u>State Local Partnership</u>). Other Prop 1B programs, involve some ongoing controversies, but there would not likely be any benefit gained from delaying action, so the Subcommittee may want to close those issues at this hearing (<u>Local Streets and Roads</u>, <u>Transit</u>, <u>and Trade Corridor Improvement</u>). For <u>Local Streets and Roads</u>, staff understands some counties would like a 2008-09 appropriation, but the amount appropriated in 2007-08 was anticipated to last two years for most counties, and more distributions in advance of project needs would increase General Fund bond interest costs by issuing bonds before the funding is needed. For <u>Transit</u>, there are slightly different allocations to local transit agencies depending on what base years are used for the allocation formula; however, a stable formula is desirable, and adoption of the 2004-05 through 2006-07 period on an ongoing basis would tie to both the period that Proposition 1B was developed and approved by voters, and the 2007 Budget Act formula. For the <u>Trade Corridor Improvement Program</u>, the California Transportation Commission held multiple hearings and on April 9 adopted a program of projects – the CTC expects to allocate $413 million in 2008-09.

Staff Recommendation:

- Keep open the Intercity Rail and State Local Partnership appropriations, but approve all the other programs with the following modifications:
  - Update the Trade Corridor Investment appropriations to replace the placeholder funding amounts with the actual program adopted by the CTC (the updated appropriation would be $413 million [according to Caltrans]) with language allowing an augmentation of up to 25 percent of the 2009-10 project need if projects are accelerated.
  - Revise statute to set the *ongoing* Transit funding formula to the 2004-05 through 2006-07 base period.

Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Harman absent. Also adopted LAO's recommendation to allow Transit project sponsors to "bank" funds over multiple years.

15. Proposition 1B State Operations (BCPs #15, #38, Finance Letters #4). The Administration submitted three requests related to Prop 1B staffing. All three relate to administrative workload, and do not include Capital Outlay Support (COS) staffing of Engineers and Engineering Technicians that design and oversee construction projects. Adjustments to COS staffing will be presented by the Administration in a May Revision Finance Letter consistent with statutory authority. In these three budget proposals, the Administration requests a total of $4.9 million (Prop 1B bond funds) and 46 positions. Note, last year the Legislature approved about 70 new Caltrans positions to perform administrative workload related to the bonds; however, the Administration originally had requested 112 new positions. The number of new positions was reduced, in part, because some of the new workload would not occur until after 2007-08. So, some growth in Prop 1B administrative staffing for 2008-09 was a consideration when actions were taken last year.

Background / Detail: The specific Administration proposals are as follows:

- BCP #15 requests $2.1 million (bond funds) and 23 new positions (three-year limited-term). The Division of Accounting would gain 6 positions to process a higher volume of project accounting workload; the Division of Mass Transportation would gain 7 positions for administrative responsibilities for the Public Transportation Modernization, Improvement and Services Enhancement Account (PTMISEA) bond component; and the Division of Rail would gain 10 positions for coordinating the completion of high-priority grade separation and railroad crossing safety improvements.
- BCP #38 requests no dollars and 5 new positions (two-year limited-term) which the Administration indicates were inadvertently deleted last year when implementation of the Trade Corridor Improvement Fund and State and Local Partnership Program were deferred to 2008-09.
- April Finance Letter #4 requests $2.8 million (bond funds) and 18.0 new positions for workload associated with the Trade Corridor Investment Fund and the State-Local Partnership Program for which implementation was deferred from 2007-08 to 2008-09 in the 2007 Budget Act. The new positions would be spread over Transportation Planning (2 positions); Local Assistance (8 positions), Rail (1 position); Audits and Investigations (2 positions); Accounting (4 positions); and information technology (IT) (1 positions). The IT position would be funded from all bond categories and help maintain and improve the bond accountability website.

LAO Recommendations: The Legislative Analyst worked with the Administration to validate the staffing requests and those discussions resulted in a revised administration request. Staff understands that Caltrans believes BCP #15 can be reduced by 18.6 positions resulting in a net new funding request of $318,000 and 4.5 new positions.

Staff Comments: As alluded to above, when the Legislature reduced the requested Prop 1B staffing last year, it was anticipated there would be some staff ramp-up over time and that a new staffing request for 2008-09 was likely.

Staff Recommendations:

- Approve the reduced level of BCP #15 staffing recommended by the LAO.
- Approved technical BCP #38 budget corrections.
- Approve FL #4, but also adopt budget bill language to tie the expenditure of funding related to the State-Local Partnership program to the implementation of program guidelines.

Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Harman absent.

16. **Information Technology Requests (BCP #31, April Finance Letter #1, #3, #5, #11, #14, and part of #15)**. The Administration submitted six requests relating to ongoing or new information technology (IT) projects.

Background / Detail: The specific Administration proposals are as follows:

- BCP #31 – IT Acquisition Staff requests 5 new positions funded from a combination of new funds ($188,000) and funds redirected from operating expenses and equipment ($226,000) to establish an acquisition program in the Division of Procurement and Contracts to meet the Department of General Services Uniform Standards for IT procurement as mandated in Management Memo 07-02. Caltrans indicates that the workload is driven by DGS lowering the cost threshold for IT projects for the documentation, analysis, and evaluation requirements.
- Finance Letter #1 – Integrated Financial Management System (IFMS) requests approval of a multi-year cost escalation for this project of $8.5 million and extension of limited-term positions to accommodate the 2-year project delay outlined in the recent Special Project Report. The new total cost for the project is $40.4 million, including $13.9 million in redirected resources. This project would replace the 24-year old legacy system known as Transportation Reporting and Accounting Management System (TRAMS) and establish the new enterprise infrastructure to support the Department's new financial management system and implement the applications supporting core financial system processes, including general accounting and budget management processes. Caltrans also requests to rename the project from IFMS to Enterprise Resource Planning (ERP) – Financial InfraStructructure, or E-FIS. Multi-year funding of about $31.9 million was originally approved for this project in 2006-07.
- Part of Finance Letter #15 - – Integrated Financial Management System (IFMS) requests technical budget adjustments related to base funding for IFMS that was built into the January Governor's Budget. The Administration indicates that the correct base project budget for 2008-09 (based on multi-year funding approval in 2006-07) was $8.0 million. However, an additional $11.2 million was inadvertently added. This technical FL requests to delete the $11.2 million from the Governor's Budget.
- Finance Letter #3 – Construction Management System (CMS) requests approval of a revised project schedule that anticipates project completion in 2011-12 instead of 2009-10 as originally anticipated when the project was approved in 2006-07. The new cost is actually about $500,000 less over the multi-year period. The project would replace the 32-year old legacy system known as Contract Administration System (CAS) with the purchase, transfer, and modification of an existing system from the American Association of State Highway and Transportation Officials. The new system would allow better expenditure tracking by project and is estimated to produce annual savings of about $18.8 million when in use from a combination of reducing bad payments to contractors and reducing federal ineligibility notices.

- <u>Finance Letter #14 Project Resourcing and Schedule Management System (PRSM)</u> requests a reappropriation of $11.6 million for the PRSM project. PRSM would improve the management and tracking of Capitol Outlay Support (COS) costs for transportation projects, adding new functionality so Caltrans could easily track COS costs by individual project and tie that information to employee timekeeping. According to the Finance Letter, the winning bidder failed to sign the contract in February 2008, and DGS has since issued a new Notice of Intent to Award to the remaining qualified bidder. If that bidder accepts the contract, the funding will be encumbered and this request will not be necessary. This request is only necessary if that vendor also rejects the contract and procurement is reinitiated in 2008-09.
- <u>Finance Letter #5 Roadway Design Software (RDS)</u> requests approval of a multi-year funding of $10.4 million ($200,000 in 2008-09) to replace the engineering design software the department uses for highway projects. The existing software is being discontinued and no longer enhanced or supported by the vendor.
- <u>Finance Letter #11 Transportation Permits Management System (TPMS)</u> requests a budget reduction of $551,000 to backout the budgeted ongoing costs for the TPMS IT project which was recently abandoned as a failed project. The LAO detailed the history of this project in the *Analysis of the 2008-09 Budget Bill*. The TPMS was supposed to automate the issuance of transportation permits for oversized or overweight loads to reduce the incidence of human error and any resulting bridge hits or accidents that might result. The LAO recommended that Caltrans report to the Subcommittee on its plans for automating transportation permitting now that the IT project has failed.

Suggested Questions: The Subcommittee may want to hear from the LAO, Caltrans, and the public on the following:

1. ***<u>For BCP #31 – IT Acquisition Staff:</u> Caltrans requests new staff and cites DGS Management Memo 07-02 as the workload driver. However, staff is not aware of any other department that has submitted a budget request related to this Management Memo – Why can Caltrans not comply with the DGS memo within existing resources, as other department are?***
2. ***<u>For FL #1 & #15 –</u>*** **<u>Integrated Financial Management System (IFMS):</u>** ***Caltrans requests authority to proceed to contract with the $40 million IFMS project – Since this project has been delayed several years, does it still make sense to continue this project while the statewide FI$CAL enterprise financial system is under consideration?***
3. ***<u>For FL #3 & #14 –</u>*** **<u>Construction Management System (CMS) & Project Resourcing and Schedule Management System (PRSM):</u>** ***Caltrans requests reappropriations for these projects due to procurement delays. Since several years have elapsed since these projects were developed and technology is always changing, are these projects still the best technical and economical solutions to IT deficiencies?***

4. ***For FL #5 Roadway Design Software (RDS):*** ***Caltrans requests funding of $10.4 million for this new IT project. Can this new IT project be deferred to 2009-10?***
5. ***For FL #11 Transportation Permits Management System (TPMS):*** ***What lessons have been learned from this failed IT project and how will Caltrans proceed to ensure safety in this area without an automated oversize/overweight on-line permitting system?***

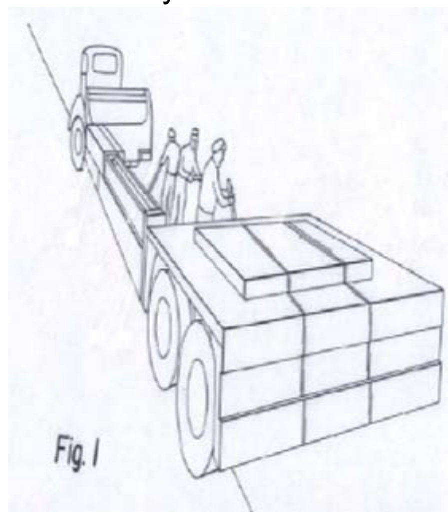
Staff Comment: According to follow-up information from Caltrans, most of the new workload related to IT Acquisition (FL #31) would come from new delegated IT projects in the range of $500,000 to $1.0 million. The budget situation would not seem to allow for many new projects of this nature. For the ongoing IT projects, IFMS, CMS, PRSM (FLs #1, 15, 3, 14), the need and value of these projects has previously been established, so recommend approval of the requested changes in project timelines and costs. For the TPMS (FL #11), it seems reasonable to delete the IT system maintenance funding, since the IT system has been declared a failed project – however, since this project relates to a public safety issue, the Subcommittee may want to add a report requirement for Caltrans to outline its new longterm approach to this problem (after that longterm approach has been determined). For RDS (FL #31), it appears this should be a low-risk project, and that the new design software will ultimately be needed – since the 2008-09 cost is only $200,000, is may make sense to move forward this year, instead of deferring the project a year.

Staff Recommendation:

- Reject *new* funding for IT procurement (BCP #31) but allow Caltrans to redirect the requested $226,000 from operating and expenses funding for new staff.
- Approve the requested budget changes for previously-approved IT projects: IFMS (FL #1 & 15), CMS (FL #3), and PRSM (FL#14).
- Approve the technical adjustment to reduce the budget by $551,000 to recognize the failed TPMS IT project, but add new Supplemental Report Language for Caltrans to report its long-term solution, once it is determined. (January 10, 2009, due date).
- Approve the new IT project RDS (FL #5) to update Caltran's design software.

Action: Approved Staff Recommendation for BCP #31, and FL #5 on a 2 – 1 vote with Senator Harman voting no. Approved Staff Recommendation for the other budget requests on a 3 – 0 vote.

17. Worker Safety Improvement (BCP #12). The Administration requests $2.3 million (one-time State Highway Account) to purchase and deploy six mobile work zone protection devises (three Balsi Beams and three Barrier Systems' ArmorGuard mobile barriers) that will reduce fatalities in work zones, provide immediate and improved safety to roadway works and the public, and reduce traffic congestion. Eleven work-zone fatalities have occurred since 2002. The Balsi Beam system, pictured at right, was developed by Caltrans. The Department owns the patent and revenues related to the patent may help offset the cost over time. Because of the added safety of the Balsi Beams, fewer lanes of traffic need to be closed, and that is the basis of the congestion relief.



Staff Comment: Since the requested safety systems are limited in scope (a total of six devises), the Subcommittee may want Caltrans to report next Spring on the implementation of this year's request and whether additional investments would be warranted. Additionally, it would be interesting to know if Caltrans is successful in selling the right to use the technology to other entities and, if so, what is the amount of the sale and who are the purchasers.

Staff Recommendation: Approve the request with the addition of March 1, 2009, supplemental report language.

Action: Approved request plus report language on a 3 – 0 vote.

18. **Federal Highway Administration Requirements (BCP #20 & TBL).** The Administration requests a net funding increase of $638,000 (State Highway Account), a shift of local assistance funds to State support of $2.2 million (federal funds) and 30.0 positions (permanent) to address the workload increase resulting from implementation of more stringent regulations and modified business practices of the Federal Highway Administration (FHWA). Implementing Trailer Bill Language (TBL) is also requested. According to Caltrans, new FHWA documentation requirements and oversight requirements have doubled the time staff spends authorizing funding for typical transportation projects. Because a majority of this workload relates to federal funds that flow to local governments, a proportional amount of the new administrative costs is taken from relevant local assistant funds.

    Staff Comment: The request to primarily fund the cost of the new federal requirements via redirection of the related federal funds seems reasonable. The alternative would be to leave the related federal local assistance funds whole, and use additional state funds to address the new requirements.

    Staff Recommendation: Approve the request.

    Action: Approved request on a 2 – 1 vote with Senator Harman voting no.

19. **Office of Strategic Planning / Performance Measures (BCP #25).** The Administration requests $1.1 million (State Highway Account) and 5.0 positions (permanent) for strategic planning and performance-based management efforts. Caltrans indicates that these positions will be used to develop annual operational plans; update the strategic plan; build the business plan; develop and refine strategic performance measures; prepare quarterly performance reports; and conduct external and internal surveys. In 2005-06, BCP #10 funded the development of strategic performance measures on a two-year limited-term basis – those funds expired in 2006-07 and this BCP indicates Caltrans absorbed the cost of the effort in 2007-08.

    Staff Comment: Staff has reviewed some of the planning and performance measures related to the request, and they have value. However, this workload is being absorbed within the 2007-08 budget, and the Subcommittee is generally rejecting budget requests for ongoing activities where the departments have been able to make do in 2007-08 with base budget resources. Additionally, strategic planning and the measurement of performance should already be activities included in any department's core workload.

    Staff Recommendation: Reject the request.

    Action: Rejected request on a 3 – 0 vote. Chair directed staff to review any additional information Caltrans wishes to provide.

20. Americans with Disabilities Act (ADA) - Compliance (April Finance Letter #2). The Administration requests $3.5 million (each year for two years - State Highway Account) and 2.0 positions (two-year limited-term) for (1) development of an updated transition plan and program to achieve ADA compliance - $3.6 million over two years; (2) complaint resolution / investigation - $2.2 million over two years; and (3) contract legal services for litigation - $1.2 million over two years (Caltrans is absorbing some related legal service contract costs in 2007-08). Caltrans indicates that most sidewalks within the state highway system have been placed by local agencies via encroachment permits; however, the State is responsible for ADA compliance and more than 2,000 miles of sidewalk and 15,000 intersections existing on the State highway System.

Staff Comment: During the February 27, 2008, Senate Rules Committee confirmation hearing for Business, Transportation, and Housing Secretary Dale Bonner, the ADA litigation against the State was discussed. The State was using the defense that state agencies have “sovereign immunity” to challenge the venue the plaintiffs used to seek a remedy for their claims against Caltrans. This line of defense was a concern for disability rights groups that testified at the hearing, and the President pro Tempore asked the Administration to reconsider this line of defense. Since that hearing, the federal district court did reject the claim of sovereign immunity, although the litigation is ongoing.

The January Governor’s Budget reflects that the Highway Transportation Legal program has a 2008-09 budget of $80.4 million and 194.8 positions, including $48.6 million in expected tort payments. It is not clear why the existing legal budget cannot accommodate the $600,000 in litigation contract costs, especially given that those costs are being absorbed in 2007-08.

Staff Recommendation: Approve the requested funding for the ADA transition plan and complaint resolution/investigation, but reject the augmentation for litigation contracts.

Action: Approved Staff Recommendation on a 3 – 0 vote.

21. Aircraft Replacement (BCP #9). The Administration requests authority to seek a loan of $1.2 million to be repaid over a 10 year period with annual payments of about $156,000 out of the Aeronautics Account. Caltrans currently operates two aircraft to meet statutory inspection requirements for general aviation airports and heliports. The Department indicates that the older of the two existing aircraft, a 1969 Beechcraft Bonanza model "E-33" Debonair, is experiencing degraded operational safety and higher operating costs.

Detail / Background: The Division of Aeronautics is supported by about $8.0 million in annual revenue from the excise tax on jet fuel and aviation fuel. These revenues are considered general taxes, not fees, and are not constitutionally protected like gasoline excise taxes. Annual expenditures are split between state operations and local assistance grants, with about $3.6 million supporting the Caltrans staff of 25.7 positions and their activities, and with about $4.1 million supporting three grant programs to general aviation airports. Statute requires the Division to inspect general aviation airports for obstructions (such as trees) in the vicinity of airports, approve heliport permits, and evaluate proposals to construct State buildings within two miles on an airport. Caltrans performs their statutory duties by flying two aircraft around the state to inspect the 250 public-use airports, 64 special-use airports, and 495 special-use heliports.

Staff Comment: Since the Subcommittee has not heard any budget issues related to the Caltrans Division of Aeronautics in several years, the Subcommittee may want to hear from Caltrans on this budget request and how it is necessary to achieve their statutory obligations. The proposal to use multi-year financing to acquire the new aircraft seems reasonable, to lessen the impact in any one year on grants to local airports.

Staff Recommendation: Approve the request.

Action: Approved request on a 3 – 0 vote.

22. Transportation Loans (Governor's Budget, TBL, and LAO Alternative). The table below is copied from the March 2008 Caltrans *Quarterly Finance Report* that the department presents to the California Transportation Commission.

Status of Outstanding Transportation Loans
($ millions)

FUND	Original Loan Plus Interest as of 2004-05	Loans/Interest Paid-to-Date	Expected 2007-08 Payments	Remaining Balance
Pre-Proposition 42 (Tribal Gaming Revenue):				
State Highway Account (SHA)[1]	$473	$241	$100	$132
Public Transportation Account (PTA)[2]	275	10	0	265
Traffic Congestion Relief Fund (TCRF)[3]	482	0	0	482
Locals[4]	0	0	0	0
Subtotal Pre-Position 42 Tribal Gaming Loans:	**$1,230**	**$251**	**$100**	**$879**
Proposition 42:				
Public Transportation Account (PTA)	$217	$217	$0	$0
Transportation Investment Fund (TIF)	438	438	0	0
Transportation Congestion Relief Fund (TCRF)[5]	1,067	323	82	662
Locals	438	438	0	0
Subtotal Proposition 42 Loans:	**$2,160**	**$1,416**	**$82**	**$662**
Totals:	**$3,390**	**$1,667**	**$182**	**$1,541**

[1]The SHA is expected to be repaid $100 million in 2008-09 and approximately $32 million in 2009-10 depending on SCO interest calculations.
[2]The PTA repayment is expected to begin in 2012-13 and be completed in 2014-15.
[3]The TCRF repayment is expected to begin in 2009-10 and be completed in 2016-17.
[4]The 2006-07 Proposition 42 loan repayment of $1.416 billion repaid the local Pre-Proposition 42 balance that was to be paid from Tribal Gaming bonds.
[5]The remaining amount due to TCRF under Proposition 42 suspension will be repaid in equal annual installments ending in 2015-16.

Background / Detail: As indicated on the table, at the end of 2004-05, a total of $3.4 billion was outstanding from transportation loans to the General Fund. Through 2007-08, approximately $1.8 billion of these loans will have been repaid and about $1.5 billion will remain outstanding. Of the outstanding debt, $879,000 will be repaid by tribal gaming revenue pursuant to statute and $662,000 will be repaid by the General Fund pursuant to the requirements of the Constitution as amended by Proposition 1A in 2006. The Governor's Budget reflects 2008-09 loan repayments of $100 million from tribal gaming revenues and $83 million from the General Fund.

Due to actions taken in the 2007 Budget Act to address the General Fund shortfall, certain Public Transportation Account (PTA) revenues were shifted to fund mass transportation expenses that would otherwise have been supported by the General Fund. That action has left the PTA short in 2008-09 and the Administration proposes a $60 million loan from the Traffic Congestion Relief Fund (TCRF) to the PTA to cover the cost of ongoing PTA projects in 2008-09. The Administration believes it will be able to repay this intra-transportation loan in 2010-11, and that it would not affect project allocations for the TCRF program.

LAO Alternative: In the *2008-09 Perspectives and Issues*, the Legislative Analyst presents an alternative budget that includes diversion of $100 million in tribal gaming funds from transportation-loan repayment to the General Fund on a one-time basis. As budgeted, the 2008-09 tribal gaming payment will repay $100 million to the State Highway Account, where the funding will support the State Highway Operations and Protection Program (SHOPP). The LAO alternative would provide $100 million in General Fund relief but at the expense of delaying $100 million in SHOPP projects.

Possible Tribal-Gaming Bond: In addition to the issues discussed above, it should be noted that litigation continues concerning the issuance of a bond backed by tribal revenue to repay a portion of transportation loans. The bond was authorized by statute in 2004, and current statute prioritizes the repayment of transportation funds in the following order:

- $132 million for the State Highway Account (SHA)
- $290 million for the Traffic Congestion Relief Fund (TCRF)
- $265 million for the Public Transportation Account (PTA)
- $192 million for the Traffic Congestion Relief Fund

Since litigation has delayed the issuance of the bonds, the incoming revenue of $100 million per year has been used to directly repay transportation debt instead of repaying bonds. Staff understands there is some probability that litigation will be resolved and tribal gaming bonds will be sold in 2008-09. The statutory prioritization of loan repayments was set according to the priorities of 2004, and prior to Proposition 1B transportation bonds. Given the time that has elapsed since the statutory repayment plan, it may be worth updating this prioritization to conform to current priorities – for example, it may make sense to first fully repay the SHA, next repay $60 million to the PTA (pursuant to the identified cash need), next fully repay the TCRF, and finally fully repay the PTA.

Suggested Questions: The Subcommittee may want to hear from the LAO, Caltrans, the CTC, the Department of Finance, and the public on the following:

1. ***What is the status of litigation related to the issuance of tribal gaming bonds?***
2. ***What would be the likely amount of proceeds from tribal gaming bonds?***
3. ***What is the TCRF fund condition and are some transportation projects being delayed due to outstanding loans from the TCRF?***
4. ***What is the PTA fund condition, and why is a loan from the TCRF the best response?***
5. ***Does it make sense to reprioritize the loan repayments from tribal gaming bonds?***
6. ***What is the LAO alternative for the $100 million tribal gaming payment in 2008-09 and what would be the affect on transportation programs?***

Staff Recommendation: Keep this issue open for further discussion and for the May Revision.

Action: Deferred issue to future hearing due to time constraint.

23. Transportation Funds for the Institute of Transportation Studies (in the University of California Budget). The Administration requests an augmentation of Public Transportation Account (PTA) funding for support of the Institute of Transportation Studies (ITS) at the University of California (UC). The Administration requests to increase PTA funding from $980,000 to $6.0 million. The funding would help address what UC considers a lack of sufficient core funding. The ITS also attracts $30 million per year in extramural research funding. If the funding is approved, UC indicates that it would be used to initiate new research, education, and outreach programs at the existing ITS programs at the Berkeley, Davis, and Irvine campuses, but will also seed and support the expansion of transportation research at six other campuses. UC suggests the new PTA funds would increase their ability to obtain additional federal research grants.

Staff Comment: Staff discussed this proposal with the Subcommittee #1 Consultant in regards to the UC budget. It seems appropriate to consider this proposal in two steps: first, a determination in Subcommittee #4 if PTA funding is sufficient to support increased support of ITS at UC; and second – if Subcommittee #4 approves the funding, a determination by Subcommittee #1 if the planned UC expenditures of PTA funds is best-focused on Legislative priorities.

The UC indicates that the PTA support of transportation research was first established at $920,000 in 1947, and has since then only growth to $980,000.

Given the insolvency of the PTA discussed in the prior issue, and the proposed $60 million loan from the Traffic Congestion Relief Fund to the PTA to keep the PTA solvent in 2008-09, there does not appear to be capacity for the 500-percent increase in PTA support for UC this year. Given the valuable transportation research performed by UC, the Administration may want to resubmit this proposal in a future year when the PTA has sufficient reserves.

Staff Recommendation: Reject the PTA augmentation for the UC Budget.

Action: Rejected request on a 2 – 0 vote with Senator Harman absent.

24. Funding for Pilot Projects with Late Reports: There are three limited-term pilot programs that the Legislature approved in past years, and that have funding budgeted for 2008-09, for which April 1, 2008, reports are overdue. The three pilots are as follows:

- Owner-Controlled Insurance Program (OCIP): This is a three-year pilot implemented in 2006-07 to test the cost savings that might be achieved from Caltrans-controlled insurance for highway contractors. $1.4 million is budgeted in 2007-08 and $1.4 million is budgeted in 2008-09.
- Virtual Traffic Monitoring Stations (VTMS): This is a two-year pilot implemented in 2007-08 to test the feasibility of purchasing traffic data from private vendors to possibly avoid the cost and traffic congestion associated with having to install and maintain traffic loop detectors in highway pavement. $1.2 million is budgeted in 2007-08 and $1.1 million is budgeted in 2008-09.
- Corridor System Management Plan (CSMP): This is a two-year pilot implemented in 2007-08 to test the benefit of highway corridor system management plans, to best focus future investment. $4.8 million is budgeted in 2007-08 and $4.8 million is budgeted in 2008-09.

LAO Comment: The LAO notes that last year's request for CSMP funding was modified by the Legislature to provide only one-year of funding - $4.8 million in 2007-08. The intent of the Legislature at that time was that Caltrans would provide a new Budget Change Proposal (BCP) this year to justify, and request funds for, the second year of the pilot in 2008-09. However, Staff understands that Caltrans mistakenly retained the funding for 2008-09 without submitting a BCP.

Staff Comment: Caltrans is generally among the best departments for providing required reports and providing non-required performance data to the Legislature. However, there are currently three reports that directly relate to ongoing pilot programs with funding budgeted for 2008-09. When the Legislature previously approved funding for these pilot projects it was with the condition that the Administration would provide periodic reporting. In previous hearings this year, the Subcommittee has sometimes deleted funding for budget requests related to late reports, without prejudice to possible reconsideration at a later hearing after the reports have been submitted. Accordingly, the Subcommittee may want to delete the 2008-09 funding of $7.3 million (State Highway Account) for these pilots.

Staff Recommendation: Delete funding of $7.3 million for these pilot projects, without prejudice to possible reconsideration at a later hearing after the reports have been submitted.

Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Harman absent.

2640 Special Transportation Programs

The State Transit Assistance (STA) budget item provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation programs. Revenue traditionally comes from the sales tax on diesel fuel and a portion of the sales tax on gasoline (including a Proposition 42 component), and is available for either operations or capital investment. With the passage of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B), bond funds are also available for this program. However, bond funds may only be used for capital investment.

The Governor proposes funding of $1.1 billion for State Transit Assistance – an increase of $189 million. This proposal includes $350 million in Prop 1B bond funds and $743 million in traditional fuel sales tax funds.

Background / Detail on Revenue: The proposed budget includes $743 million for local transit operators that can be used for either operations or capital investments. These funds come from three primary sources:

- 67 percent of "spillover funds" that are available for traditional transit purposes – $304 million (these are gasoline sales tax revenues in excess of Proposition 42);
- 75 percent of Proposition 42 funds that go to the Public Transportation Account (PTA) – $223 million; and
- 50 percent of all other PTA revenues – $216 million.

Combined, these represent an increase of $439 million from the current year, which is funded at $304 million. The proposed budget also includes $350 million from Prop 1B funds for capital investment, which is a decrease from the $600 million provided in the current year.

Background / Detail on 2007 Budget Act Changes: The proposed budget for STA is the result of three key changes in the current year:

- The Governor, in the current year, proposed to permanently redirect all spillover revenues to the General Fund. The final budget agreement resulted in only 50 percent of spillover funds being redirected to the General Fund beginning in 2008-09.
- To mitigate the impact on local transit agencies of this permanent shift of Spillover funds from the PTA, the budget agreement increased the STA's share of the spillover that reaches the PTA from 50 percent to 67 percent beginning in 2008-09.
- The Legislature passed SB 717 (Perata) which increased the STA share of PTA revenues from Proposition 42 from 50 percent to 75 percent beginning in 2008-09.

If none of these changes had been made in the current year, then the non-Prop 1B budget for STA would have been about $818 million. Clearly, the legislative actions to mitigate the loss of Spillover revenues helped, but did not completely fill the hole. In addition, to the extent the impact on STA was mitigated, it came at the expense of other

PTA responsibilities, such as the State Transportation Improvement Program (STIP), intercity rail, and high-speed rail.

Background / Detail on 2008-09 General Fund Relief: Consistent with statutory change adopted last year, the Administration estimates 2008-09 General Fund relief will be $596 million and will be allocated as follows:

- $372 million for transportation-related general obligation bond debt.
- $141 million for transportation services budgeted in the Department of Developmental Services.
- $83 million to reimburse the General Fund for the 2008-09 Proposition 42 loan repayment.

The Administration has submitted trailer bill language which makes technical changes to statute to implement the existing funding mechanism in 2008-09.

Staff Comment: The “spillover” portion of STA funding is highly dependent on gasoline prices. The Governor’s Budget assumes that gasoline prices in calendar year 2008 will average about $3.30 per gallon. Average gasoline prices in 2008 have exceeded this estimate and each 10-cent increase in prices will increase relevant gasoline sales tax revenue in the neighborhood of $70 million. Under the statutory allocation formula adopted in 2007, half of any new revenue will benefit the General Fund and half of any new revenue will benefit traditional mass transportation (one-third in the Caltrans budget and two-thirds in the STA). The Administration will submit new revenue estimates with the May Revision of the Governor’s Budget, which could significantly affect the STA budget.

Staff Recommendation: Hold open pending new revenue estimates with the May Revision of the Governor’s Budget.

Action: Deferred issue to future hearing due to time constraint.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Monday, April 28, 2008
10:00 a.m.
Room 3191

State Administration—General Government—Judiciary—Transportation

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

5525 California Department of Corrections and Rehabilitation

Rehabilitation Program Reform Efforts

1. AB 900 Implementation—Rehabilitation Programs

Background. Chapter 7, Statutes of 2007 (AB 900, Solorio) authorized additional prison and jail bed capacity. The legislation authorized $7.4 billion in lease-revenue bonds and appropriated $350 million General Fund to implement this legislation. The legislation also contained considerable legislative directives related to rehabilitative programming, including $50 million General Fund targeted for rehabilitative programming. Specifically AB 900 requires the following changes to rehabilitative programming at CDCR:

- **New Beds Must Include Program Space.** Requires all new state prison beds to include substance abuse treatment, work programs, academic and vocational education, and mental health care. Also authorizes CDCR to use portable buildings for inmate rehabilitation treatment and housing to ensure sufficient program space is available.
- **Expanded Substance Abuse Beds.** Requires implementation of 4,000 new dedicated substance abuse treatment beds with post-release aftercare treatment for parolees.
- **Mandatory Risk/Needs Assessment.** Requires individualized program risk/needs assessment for all inmates at reception centers and the development of an individualized treatment plan.
- **Complete Plans.** Requires development of a plan to obtain more treatment and rehabilitative services for the inmate and parolee populations. Also requires the development of a prison-to-employment plan to ensure programs provide sufficient skill to assist in successful re-entry and employment.
- **Rehabilitation Oversight Board.** Creates the California Rehabilitation Oversight Board (C-ROB) to evaluate CDCR rehabilitation and treatment programs and recommend changes to the Governor and the Legislature.
- **Mental Health Day Treatment.** Requires the development of community services to assist parolees suffering from mental illness.
- **Education Incentives.** Requires implementation of a system of incentives designed to increase participation in education programs and encourage inmates to complete educational goals.
- **Rehabilitative Staff Pipeline Development.** Requires development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.
- **Management Deficiencies.** Requires CDCR to develop and implement a plan to address management deficiencies within the department.

AB 900 Benchmarks. There are numerous benchmarks identified in AB 900 that must be met and verified by a three-member panel comprised of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the prison bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department with regard to the benchmarks detailed below.

- **Infill Beds.** At least 4,000 of the infill beds authorized in Phase I must be under construction or sited, including adequate rehabilitation programming space to implement AB 900.
- **Re-Entry Beds.** At least 2,000 re-entry beds authorized in Phase I must be under construction or sited.
- **Substance Abuse Beds.** At least 2,000 of the new substance abuse beds must be established and prison drug treatment slots must have averaged 75 percent participation over the previous six months.
- **Risk/Needs Assessment.** An individualized inmate risk/needs assessment must be administered at reception centers and be used to assign inmates to housing and programs for at least six months.
- **Complete Plans.** The CDCR must have completed the Expanding Inmate Treatment Services and Prison-to-Employment Plans required by AB 900.
- **Parolee Mental Health Treatment.** At least 300 parolees must be served daily in mental health treatment centers.
- **California Rehabilitation Oversight Board.** The California Rehabilitation Oversight Board must be in operation for one year and regularly review CDCR's programs.
- **Management Deficiencies.** The CDCR must implement a management deficiency plan and have at least 75 percent of management positions filled for at least six months.
- **Educational Programs.** The CDCR must increase full-time participation in inmate education and vocational education programs by 10 percent over the April 2007 levels.
- **Vacancy Rate.** The CDCR must develop and implement a plan to obtain additional rehabilitation services and reduce its vacancy rate for positions dedicated to rehabilitation and treatment services in prisons and parole offices to no greater than the statewide average vacancy rate for all state positions.
- **Parole Procedures.** The CDCR must review its current parole procedures.

Staff Comments. Staff notes that CDCR recently released (April 10, 2008) a document entitled "Prison Reforms: Achieving Results" that provides an update on the progress the department has made in meeting each of the benchmarks listed above, including a projected completion date. In this document the department projects that it will have completed all of the benchmarks by December 2008. Staff finds that many of the projected completion dates seem overly optimistic. Furthermore, staff notes that many of the benchmarks are sufficiently vague and working definitions are needed to determine when the benchmarks are actually met. Staff is not aware of the working definitions developed by the department for this purpose. Furthermore, as stated above, the three-member panel has not been convened to establish the working definitions or make a determination of progress by the department.

2. Expert Panel Report

Background. The Legislature approved $900,000 General Fund in the 2006 Budget Act to fund an Expert Panel to review the current state of programming within CDCR and make recommendations for improving the programming delivered to inmates and parolees. The Expert

Panel was made up of a diverse group of correctional experts and academics from across the nation and was co-chaired by the department.

The Expert Panel submitted its final report in the summer of 2007. This Subcommittee held a hearing to review the findings and recommendations contained in the report in August 2007. The Expert Panel report made several key recommendations related to reducing CDCR's population and improving factors internal to the programming environment.

Population Reduction Recommendations. The Expert Panel recommended that California reduce overcrowding in its prisons and parole offices in order to successfully reduce recidivism. In order to reduce the population, the Panel recommended enacting legislation to expand its current system of positive reinforcements for offenders who successfully complete their rehabilitation program requirements, comply with institutional rules in prison, and fulfill their parole obligations in the community. Specifically, the Expert Panel recommended:

- Awarding earned credits to offenders who complete any rehabilitation program in prison and on parole.
- Replace work incentive program credits with statutorily-based good time incentive credits.
- Implement an earned discharge parole supervision strategy for all parolees released from prison after serving a period of incarceration for an offense other than those listed as serious and violent.

The Expert Panel estimated that if the population reduction recommendations listed above were implemented the prison population could be reduced by approximately 40,000 and the parole population could be reduced by approximately 10,000.

The final recommendation related to earned discharge parole supervision is consistent with the recommendation made by the LAO and discussed by this Subcommittee on March 12.

Evidence-Based Principles and Practices. The Expert Panel also made several recommendations related to improving factors internal to the programming environment. These recommendations were based on eight key evidence-based principles and practices. These practices were visualized by the Expert Panel in the California Logic Model. The California Logic Model is a detailed, sequential description of how California should apply the following evidence-based principles and practices:

- Target highest risk offenders.
- Assess offenders' needs.
- Design responsivity into programming.
- Develop behavior management plans.
- Deliver treatment programs using cognitive-based strategies.
- Motivate and shape offender behaviors.
- Engender the community as a protective factor against recidivism and use the community to support offender re-entry and reintegration.
- Identify outcomes and measure progress.

Programming Environment Recommendations. The Expert Panel's recommendations related to factors internal to the programming environment are summarized below:

- Select and utilize a risk assessment tool to assess offender risk to re-offend.
- Determine offender rehabilitation programming based on results of assessment tools that identify and measure criminogenic and other needs.
- Create and monitor a behavior management plan for each offender.
- Select and deliver, in prisons and in the community, a core set of programs that covers the six major offender programming areas: (1) academic, vocational, and financial; (2) alcohol and other drugs; (3) aggression, hostility, anger, and violence; (4) criminal thinking behaviors and associations; (5) family, marital, and relationships; and (6) sex offending.
- Develop systems and procedures to collect and utilize programming process and outcome measures.
- Continue to develop and strengthen its formal partnerships with community stakeholders.
- Modify programs and services delivered in the community to ensure that those services: (1) target the criminogenic needs areas of high and moderate risk offenders; (2) assist all returning offenders to maintain their sobriety, locate housing, and obtain employment; and (3) identify and reduce the risk factors within specific neighborhoods and communities.
- Develop the community as a protective factor against continuing involvement in the criminal justice system for offenders reentering the community on parole and/or in other correctional statuses (e.g. probation, diversion, etc.).
- Develop structured guidelines to respond to technical parole violations based on the risk to re-offend level of the offender and the seriousness of the violation.

Many of the latter recommendations made by the Expert Panel related to developing the community as a protective factor were discussed at length when reviewing the LAO's parole realignment proposal at the March 12 and April 17 hearings of this Subcommittee.

Next Steps. Staff finds that the Expert Panel also made some efforts to start reviewing and measuring the effectiveness of CDCR's existing rehabilitative efforts. The Expert Panel was able to review 11 of CDCR's programs and found none of the programs rated high on the research scale.

The Expert Panel also concluded that there were several next steps that needed to be taken by the department especially in light of the passage of AB 900. These next steps include:

- Complete assessments of the remaining 23 programs.
- Evaluate and comment on CDCR's academic program offerings.
- Develop benchmarks that assist with the implementation of AB 900.
- Help establish implementation teams to address the existence of "silos" within the organizational structure.
- Analyze support infrastructure.
- Help CDCR develop capacity to perform quality assurance and evaluate programs on a continuing basis.

- Assist with outcome evaluation on the expansions of the departments' rehabilitative programming.
- Refine information concerning the impacts of recommendations on future CDCR populations and budgets.
- Assist CDCR in developing requests for proposal for qualified research entities to conduct additional studies.
- Provide additional recommendations for prisoners with long lengths of stay.
- Provide additional recommendations for parolees reentering their communities.
- Produce a detailed implementation plan to make operational the recommendations in this report.

Staff Comments. Staff finds that the department has adopted the recommendations made by the Expert Panel that are related to the internal programming environment. The department has not fully implemented any of the population reduction recommendations made by the Expert Panel. The department did implement a policy to discharge selected inmates from parole if they have been clean and violation-free for 12 consecutive months. This policy is a variation on an earned discharge model, but does not encompass a comprehensive policy of earned discharge.

3. Governor's Rehabilitation Strike Team

Background. During the 2007 budget deliberations, there was considerable concern about the department's capacity to coordinate between custody and program to improve offender rehabilitation programs within CDCR. Furthermore, AB 900 directed the department to make additional changes and improvements to its rehabilitative programming.

Shortly after the Governor signed AB 900, at the beginning of May 2007, he named a rehabilitation strike team to assist the department in developing and implementing prison and parole programs. The rehabilitation strike team submitted three reports and was comprised of experts from universities, community organizations, and state government. Kathy Jett served as the chair of the rehabilitation strike team for the first phase of activities from May through August 2007 and Joan Petersilia served as the rehabilitation strike team chair during the second and final phase of the strike team's efforts that concluded in December 2007.

Strike Team Accomplishments. During the first phase the rehabilitation strike team worked on setting the stage for meeting specific AB 900 benchmarks. The team reports that in the first phase it drafted technical amendments to AB 900; defined all key terms within the legislation; helped expedite contracts to hire consultants to help CDCR improve its prison population projections; developed a risk assessment tool for parole agents to use when making parole discharge decisions; and developed a decision-making matrix to improve parole violation procedures. The strike team also participated in five day-long focus groups to assess parole, institutions, classification and endorsements, rehabilitative programming, and secure re-entry facilities. The strike team described its efforts in phase one as team-building, information gathering, and agenda setting.

In the second phase of the strike team efforts, the strike team in conjunction with CDCR decided to focus on four main strategies. These strategies included the following:

- **Offender Accountability and Rehabilitation Plan -** development of a plan that was designed to assess inmates' needs at intake and direct inmates to appropriate rehabilitation programs and services in prison and on parole.
- **Correctional and Rehabilitation Staff Education and Training Plan –** development and identification of rehabilitation-oriented training and curriculum for correctional and rehabilitation staff and a method of delivering that curriculum via the California Community College Districts.
- **Prison-to-Employment Program –** development of a plan to optimize offenders' ability to move from prison to employment in the community by providing academic and vocational programs of sufficient quantity and quality and building stronger partnerships between CDCR and the community.
- **Parole Reform –** development and implementation of parole reform guided by a new risk assessment tool and a parole violation decision-making matrix.

The strike team's final report submitted in December 2007 provides a detailed discussion of the background motivating each of the initiatives listed above and the details of the proposed changes and their anticipated impacts, a timeline for implementation and a discussion of implementation challenges.

Staff Comments. Staff finds that the department has built on the efforts of the strike team and has used these efforts to guide the larger scale reforms the department is currently pursuing.

4. California Rehabilitation Oversight Board

Background. The California Rehabilitation Oversight Board (C-ROB) was created by Chapter 7, Statutes of 2007 (AB 900, Solorio) and is mandated to regularly examine and report biannually to the Governor and the Legislature regarding rehabilitative programming provided by CDCR. The board is comprised of 11 members representing diverse stakeholders, including law enforcement, substance abuse, mental health, and education.

The board held its first meeting on June 19, 2007, and has held six public meetings since then. The board has delivered two reports to the Governor and Legislature.

January Report Update. The C-ROB is required, by statute, to utilize the Expert Panel in performing its duties. The board reviewed the recommendations contained in this report and concurs with its recommendations. In the board's second report to the Legislature, the board found that CDCR appeared to be working toward implementing an effective rehabilitative model, as recommended by the Expert Panel.

The C-ROB also identified "red-flags" related to the department's rehabilitative efforts to date. Specifically, the C-ROB found the following:

- Efforts to improve rehabilitative programming appear fragmented. For example, it is not clear how COMPAS assessments are being used by staff members who work directly with inmates.

- Case management plan needs developed to realize value of COMPAS assessment at intake.
- Secondary assessments are needed to effectively assess inmates.
- Multidisciplinary teams are needed for successful implementation and the department has not demonstrated that they are using these teams to implement their efforts.
- Efforts to improve CDCR's information technology system must be expedited so that case management plans can be automated.
- Sufficient resources are needed to implement effective rehabilitative programming.
- The department needs to work on developing its inventory of rehabilitative programs so that it has at least one program in each of the major offender programming areas (e.g. criminal thinking behaviors and associations).
- Until sufficient program resources are available for all inmates, the C-ROB is concerned about how the department allocates its limited programs among various inmates and parolees.
- Improving communication between the department and the Receiver is important given significant overlap in responsibilities.
- A spending plan is needed for the $50 million allocated in AB 900.
- The C-ROB has identified considerable community resistance to siting re-entry facilities and C-ROB has found that the department would benefit from expanding its collaborative efforts with law enforcement to include other key leaders in the community service system, including mental health, human services, and others.

Staff Comments. Staff finds that several months have passed since the January C-ROB report, summarized above, was released and the department has made progress on some of the issues identified by the board. Some of this progress is explained in the budget proposals described later in this agenda.

Expanding Rehabilitation Programming

Background. Chapter 7, Statutes of 2007 (AB 900, Solorio) required that the department develop a plan to obtain additional treatment and rehabilitative services for the inmate and parolee populations. The statute requires that the plan include the following:

1. Plans to fill vacant staff positions that provide direct and indirect rehabilitation services to inmates and parolees.
2. Plans to fill vacant staff positions that provide custody and supervision services for inmates and parolees.
3. Plans to obtain, from local governments and contractors, services for parolees needing treatment while in the community and services that can be brought to inmates within prisons.
4. Plans to enter into agreements with community colleges to accelerate training and education of rehabilitation and treatment personnel, and modifications to the licensing and certification requirements of State licensing agencies that can accelerate the availability and hiring of rehabilitation and treatment personnel.

This report was submitted to the Legislature in March 2008.

Report Summary. The department has used the report to provide a more detailed description of various activities that are underway or planned to increase rehabilitative and treatment services. The department indicates in this report that it has adopted all of the Expert Panel recommendations, except the population reduction recommendations, and is in various stages of implementing these recommendations. The report addresses many efforts that will be described in more detail in the budget items that follow.

The department indicates in this report that it has developed three tracks for obtaining additional programming for inmates and parolees under CDCR. Track 1 is to increase the utilization of existing programming resources. The department describes that Track 1 is what needs to happen to get each of the institutions ready to implement the rehabilitative model being tested in the Proof Project. Track 1 is focused on utilizing existing programming within prisons by maximizing offender participation, increasing capacity within existing resources, and increasing some programming capacity with new resources. The department has developed a decision making matrix to assess the readiness of each institution to implement additional rehabilitation programming efforts.

Track 2 is to implement the Proof Project to demonstrate and test implementation of the California Logic Model.

Track 3 is the long-term rollout statewide of the new rehabilitative treatment model based on lessons learned in the Proof Project.

The report also indicates that the department has initiated a master plan for rehabilitative programming in order to better coordinate all of the different efforts being undertaken to expand rehabilitative programming. The department has noted that its current efforts are hindered by the lack of a comprehensive, integrated work plan. The department indicates that this master plan would be completed in March. Staff has not received this plan and further notes that this effort responds to concerns by C-ROB that the current rehabilitative efforts seemed somewhat fragmented.

1. Programming Space—Informational Issue

Background. In the recent report to the Legislature on expanding rehabilitation services, the department has indicated that reducing overcrowding is critical to its efforts to expand rehabilitative programming. Thus far the department has been able to transfer some inmates out of state and implement some parole changes, which coupled with a natural decline in the population has resulted in a reduction in the population currently being housed in state prison. To date the department has deactivated over 4,000 bad beds in dayrooms and gyms. This marginal reduction in overcrowding has enabled the department to return dayrooms and gyms to their intended use.

There are many reasons that overcrowded prison conditions inhibit the department’s ability to expand rehabilitative programming. For example, overcrowded prisons are less safe and result in more frequent lock-down events.

Programming Space. As mentioned above, AB 900 requires all new state prison beds to include adequate space for substance abuse treatment, work programs, academic and vocational education, and mental health care. The legislation also authorizes CDCR to use portable buildings for inmate rehabilitation treatment to ensure sufficient program space is available. Initial plans for infill projects, circulated by the department, show that they are including programming space to fully implement AB 900. The LAO estimates that they are including three times more programming space in these infill projects when compared to the last new prison built in 2005.

As discussed at the April 14 meeting of this Subcommittee, the department has developed its first master plan document in over ten years. This document did not include a discussion of what rehabilitation space was needed to expand rehabilitation programming efforts. The department has indicated to staff that it is working on site-by-site assessments of the need for additional programming space or capital outlay projects needed to expand rehabilitative programming.

Staff Comments. There are no budget proposals to expand programming space in the Governor's budget. Staff finds that AB 900 expressly authorized the department to purchase modular units to expand programming space.

2. Staff Vacancies—Informational Item

Background. The department was required to develop and implement a plan to address management deficiencies within the department as part of AB 900. The department put forward a management plan in January 2008 to meet this requirement. A section of the report was dedicated to the department's efforts to hire and retain correctional officers, teachers, and health care staff. The department indicates that it has been successful in filling its correctional officer academy since February 2007 and has taken significant efforts to expedite the hiring of additional correctional officers. The department indicates that it has been successful in filling over 1,000 vacant correctional officer positions over the past year.

The department has also taken steps to recruit additional teachers. Last year the Legislature approved a salary increase for teachers and the department reports that it has hired 175 teachers, but still has over 100 remaining vacancies. The department was also directed, by AB 900, to consider modifications to licensing and certification requirements that would enable the department to hire additional staff to deliver rehabilitation services. The department indicates that it initiated this review in March 2008.

Staff Comments. Staff finds that staffing vacancies for both custody and program will need to be filled in order to expand rehabilitation services in the prisons. The LAO has identified that, on average, only 43 percent of enrolled inmates were in class each day. The department indicates that about half of the time the classroom was "dark" it was due to custody lockdowns or other custody driven disruptions. The other half of the time the classroom was "dark" because of teacher absences.

Staff notes that the department has made some progress in filling teacher vacancies, but more should be done to develop access to a pool of substitute teachers or other classroom activities that could be supervised by other institution staff. Staff also finds that the department needs to continue its efforts to reduce the duration of lockdowns by improving intelligence efforts and removing inmates that are instigating violence in the institutions.

3. Organizational Change and Capacity

Background. In the recent report to the Legislature on expanding rehabilitation services the department has identified the need to invest in getting CDCR ready to accept the changes required to implement a new rehabilitative programming approach. The department indicates that it plans to train 1,900 prison staff that will play key roles in the rehabilitation process for inmates and the implementation of AB 900.

The department is also working on an interagency agreement with the California Community Colleges System to deliver the training and education programs. Ultimately, the department plans to build the training into the training academy curriculum.

Governor's Budget. The Governor's budget includes a proposal to allocate $1.4 million in the current year and $5.4 million in the budget year to support 41 positions to start a training effort to train 1,900 prison staff that will play key roles in the rehabilitation process for offenders and the implementation of AB 900. These efforts will be funded by the General Fund appropriation for rehabilitative programming contained in AB 900.

The training provided will cover the principles of effective rehabilitation, cognitive behavioral intervention, motivational interviewing, and other skills. The training will be designed to provide department staff with communications skills and techniques designed to reduce offender resistance, increase offender motivation to change, and reduce individual criminal risk.

The department plans to start training existing staff at reception centers directly responsible for implementing the COMPAS risk assessment tool and will also identify other staff that will serve as department-wide trainers who will travel the state in teams and eventually train staff at all institutions.

The department indicates that the training is being developed utilizing external subject matter experts, the new Program Development office within Adult Programs, and the Office of Training and Professional Development.

Staff Comments. Staff finds that there is considerable need to train staff on the department's new efforts to implement its rehabilitation mission. Staff finds that the Division of Juvenile Facilities embarked on an extensive training effort over the last several years and has seen many positive changes at its institutions. Specifically, staff finds that the training being proposed provides correctional staff and other staff with additional tools that can be used to change inmate behavior and keep the institutional setting safer.

Staff notes that this budget proposal would address training needs of correctional counselors, teachers, and other staff that play key roles in the rehabilitation process for offenders. Staff finds that similar trainings would be valuable for other custody staff as well. However, delivering these trainings to other custody staff would require significantly more resources.

Staff Recommendation. Staff recommends that the Subcommittee concur with the department's planned use of funds already appropriated in AB 900.

4. Substance Abuse Treatment Expansion—In Custody

Background. The department is required by AB 900 to dedicate 4,000 additional prison beds to substance abuse treatment and provide commensurate post-release aftercare treatment slots for parolees. The department must have 2,000 of these beds established before it can move to Phase II of the prison construction authorized under AB 900.

The department has started the development of plans to provide 2,000 additional beds with substance abuse treatment services. The department has selected eight sites where additional treatment beds will be established and has started efforts to draft requests for proposals to select contractors.

Governor's Budget. The Governor's budget proposal includes $308,000 in the current year and $8.1 million in the budget year for 29 positions and to fund contracts for substance abuse treatment services to an additional 2,000 inmates and after-care for 1,300 parolees. The department indicates that the full costs to implement this program are $41 million, which will not be realized until 2010-11. The current and budget year funding will be provided by the appropriation contained in AB 900.

The funding in the budget year will support in-custody treatment services for an average daily population of 500 and does not include additional funding for after-care services. The funding to implement this budget proposal would grow over the next two years as the department increased its capacity to 2,000 new in-prison slots and increased the after-care capacity by 1,300. The positions will also be used to support CDCR staff to manage this program and additional funding is included for the cross-training of custody staff.

The department has indicated that it plans to add substance abuse programs at the following institutions:

- California Correctional Institution (Level I) – 50 beds
- California Institution for Men (Level I) – 250 beds
- Valley State Prison for Women (All Levels) – 250 beds
- Central California Women's Facility (All Levels) – 250 beds
- California State Prison, Solano (Level II) – 500 beds
- Sierra Conservation Center (Level I) – 250 beds
- Avenal State Prison (Level II) – 250 beds
- Leo Chesney Community Correctional Facility for Women (All Levels) – 200 beds

Staff Comments. Staff finds that numerous research studies have found that substance abuse treatment reduces recidivism. The studies have found that in-custody treatment is especially effective when coupled with aftercare. This proposal contains some resources for CDCR staff to manage this program and provide technical assistance to contractors and new CDCR staff supporting these programs. Staff finds that this effort should help to avoid some of the concerns raised by the Office of the Inspector General in its 2006 review of substance abuse treatment contractors.

Staff Recommendation. Staff recommends that the Subcommittee concur with the proposed allocation of funding already appropriated for rehabilitation in AB 900.

5. In-Custody Drug Treatment Program Beds—Parole Violators

Background. In an April 2007 court order in the *Valdivia* lawsuit CDCR was ordered to provide remedial sanctions for parolees that have violated parole. The order requires CDCR to establish 1,800 community-based treatment beds for parolees that violate their parole conditions due to a drug or alcohol dependency. The department was required to establish these beds by April 2008. Staff understands that the department has secured these beds in the community through contracting with the Substance Abuse Services Coordination Agencies (SASCAs).

In the recent report to the Legislature on expanding rehabilitation services, the department has indicated that it has already established 850 community beds statewide and 560 jail beds statewide. The department plans to ensure that there will be no fewer than 400 in-custody drug treatment beds in each of the four parole regions, with the exception of Los Angeles which will have no fewer than 600 beds.

Governor's Budget. The Governor's budget proposal includes $1.3 million General Fund to support 11 positions that will oversee the management and contracting of the community beds ordered by the court.

Staff notes that the funding to support these beds will be funded through the department's May Revision population estimate.

Staff Comments. Staff finds that in the current year there has been some evidence that these treatment beds have reduced the number of inmates returned to custody for short-term parole violations, thereby reducing the inmate population. The treatment programs should also help to reduce recidivism for this population, which could result in significant long-term savings to the state's prison system. Staff finds that proper contract oversight by CDCR staff is critical to ensuring effective and efficient use of state funds.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget proposal to comply with the court order.

6. Expanded Services for Mentally Ill Parolees

Background. The department is required by AB 900 to develop community services to assist parolees suffering from mental illness. Specifically, the department is required to provide services for 300 parolees before it can move to Phase II of the prison bed construction authorized in AB 900.

The 2007 Budget Act provided $4 million to augment the department's efforts in this area. The department is currently using a portion of these funds to provide crisis intervention services on an as-needed basis. The department is also working on developing longer-term contracts for wrap-around services for the mentally ill parolee population.

Governor's Budget. The Governor's budget proposal includes an additional $6 million to support four positions and contract services to expand the continuum of treatment services available to parolees with mental illness. The department is proposing to fund these services from the rehabilitation funding already appropriated in AB 900.

Staff Comments. The department has indicated that about 20 percent of the parolee population (over 23,000 parolees) has a mental illness. Currently, the department has parole outpatient clinics which provide mental health assessments and outpatient treatment. However, more intensive treatment options are needed for a portion of this population. The department plans to develop contracts with the counties to expand the treatment options available to this population. Staff finds that this could include mental health crisis care, supportive housing, and/or day treatment.

Staff finds that this effort could do a lot to provide more stability for the portion of this population that tends to be transient and have a serious mental illness. If this population does not have some stability they are at a high-risk to recidivate. Staff finds that in some cases sending this population back to prison can further contribute to their instability by interrupting treatment. Therefore, this effort will help to support this population in the community and could have a significant impact on improving outcomes for these parolees and public safety.

Staff Recommendation. Staff recommends that the Subcommittee concur with the department's planned use of funds already appropriated in AB 900.

7. Using Assessments and Case Plans

Background. In the recent report to the Legislature on expanding rehabilitation services, the department discusses its efforts to adopt a new approach to delivering rehabilitation services based on the recommendations of the Expert Panel. The Expert Panel recommended that the department implement programming based on eight evidence-based principles and practices visualized in the California Logic Model.

The first step in the California Logic Model is the assessment of an inmate's risks and needs. The department has been using the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) instrument in its pre-parole planning efforts for the last few years. The

COMPAS instrument is a research-based risk and needs assessment tool that is comprised of 141 questions used to determine the overall risk potential and criminogenic needs profile of the offender.

The department started using this instrument to assess inmates in four reception centers at intake in June 2007. This pilot was expanded to the eight remaining reception centers beginning in November 2007. The department indicates that the assessment is completed for a portion of the new commitments that have more than 240 days to serve. The department indicates that to date it has done 6,000 COMPAS assessments at intake.

Governor's Budget. The Governor's budget proposal includes $500,000 in the current year to support 8 positions and $5.2 million in the budget year to support 58 positions to expand the department's initiative assess inmates at intake and assign inmates to an individualized rehabilitative programming case plan. This effort will be supported by the funding provided in AB 900 for rehabilitative programming.

This request will enable the department to expand the number of new commitments who receive the COMPAS risk assessment at intake in the Reception Center and ensure that most of the new commitments with more than 240 days to serve get the COMPAS assessment at intake.

The department indicates that the COMPAS assessment will be used in conjunction with various other case factors to make an endorsement to a general population prison. The offender's risk score on the COMPAS instrument will determine the track the offender will be placed on. If the offender is moderate to high risk to re-offend he will be placed on a Rehabilitation Track. If he or she is low-risk to re-offend he or she will be placed on a Life Skills Track. If the offender is placed on the Rehabilitation Track he or she will be referred for appropriate secondary assessments (e.g. substance abuse, academic, criminal thinking). After the appropriate assessments, an individualized case plan will be developed for the inmates on both the Life Skills Track and the Rehabilitation Track. This case plan will be used by the classification committee to make program assignments.

The additional resources requested in this budget proposal will support the additional secondary assessments and the development of the case management plans. In the short term, the department has reported that it has decided to use the case management capabilities of the COMPAS tool to develop a case plan for each offender. The department indicates that it is currently reviewing the feasibility of this plan.

Staff Comments. The department is currently using teachers to give the COMPAS assessment to the inmate at intake. Staff finds that this may be a more appropriate task in the long-term for staff that are more directly involved in the classification process. Presently, the Parole Division is also implementing the full COMPAS assessment for its pre-parole planning efforts. Staff finds that this is a duplication of effort for inmates that are receiving the full assessment at intake. Staff finds that the department should coordinate its use of the COMPAS tool consistent with the California Logic Model.

Staff finds that this is an important foundation effort to implementing evidence-based programming and should help to target the right programming plan to the right offender. However, staff finds that the assessments are meaningless at reducing recidivism if programs are not available in the prisons.

Staff Recommendation. Staff recommends that the Subcommittee concur with the department's planned use of funds already appropriated in AB 900.

8. Program Support Infrastructure

Background. As mentioned above, implementing risk and needs assessments and developing case plans are an important first step, but if programs are not available in the prisons, they are meaningless. The Legislature has made considerable efforts to improve CDCR's rehabilitation efforts over the past two years. The department is currently pursuing significant changes to the rehabilitative programming available in state prison. These new efforts require a considerable amount of development and care in implementing.

Historically, the implementation and expansion of rehabilitation efforts has been challenging for the department. There are numerous operational issues within the state prisons that must be dealt with so that the institutions are safe and inmates are able to program. There are significant implementation challenges in expanding rehabilitation programming in the prisons that will require a considerable amount of coordination and careful planning.

Governor's Budget. The Governor's budget proposal includes $301,000 in the current year to support six positions and $3.6 million in the budget year to support 30 positions to provide the department with the necessary staffing to manage the rehabilitative efforts directed by AB 900 and the recommendations made by the Expert Panel, and the Governor's rehabilitation strike team. The funding in the current year, and $681,000 in the budget, will be funded from the rehabilitation allocation in AB 900.

The funding will support the following efforts:

- **Office of Program and Policy Development and Fidelity.** The department requests 13 positions to establish a new unit within the Adult Programs division that will be responsible for designing and implementing new evidence-based programs, including those identified in the Expert Panel report. This office will also be responsible for implementing a pilot of the California Logic Model referred to as the Proof Project. This new office will also ensure standardized curriculum and appropriate training to ensure that programs are implemented consistent with program design and standards.

- **Prison to Employment Section.** The department has requested six positions starting in the current year to establish a Prison to Employment Section within the Division of Education and Vocations Programs. This section will be responsible for evaluating the existing education programs to determine if the programs provide inmates with sufficient skills to likely result in offender employment in the community. This section will also be responsible for making recommended changes to better meet this goal. Funding for this section will be allocated from the appropriation in AB 900.

- **Program Support Unit.** The department has requested six positions to support a new Program Support Unit within the Adult Programs division. This unit would be responsible for coordinating and overseeing budget requests to ensure integrated approaches and non-duplicative requests. The department indicates that establishing this unit will enable personnel implementing programs to focus on program operations as opposed to administrative tasks.

- **Local Government Liaison Office.** The department has requested five positions to support a Local Government Liaison Office within the Adult Programs division. This office would be merged with the existing Division of Community Partnerships and be responsible for working with other state departments, local government, and community based organizations to establish formal partnerships to serve parolees in the community. This Office will also help to coordinate community outreach and education for implementing community portions of the California Logic Model.

Staff Comments. Staff finds that there is a need for the Office of Program and Policy Development and Fidelity. The Expert Panel recommended that the department develop offender programs in six core program areas (e.g. criminal thinking, behaviors and associations). The department indicates that it has identified at least one program for each of the core areas in the Expert Panel. However, considerable work will be required to implement these programs. In addition, staff finds that this Office will help to ensure that outcome measurements are developed for existing programs to determine if they are evidence-based.

Staff finds that a Prison to Employment Plan was mandated by AB 900. The department indicates that it is developing a prison to employment continuum to directly link behavioral, academic, and vocational education to job skills and available job opportunities in the community. The department has reviewed several prison-to-employment plans and has decided to adopt a program modeled after the Texas Project Re-Integration of Offenders (RIO) that they will call the New Start program. The department's Prison to Employment Plan has not been received by the Legislature. However, the department has indicated that this plan would include mapping existing training and work opportunities in prisons to jobs available in the community and include developing an "employment passport" for the inmate that included identification cards, trade certificates, and resumes.

Staff finds that the Local Government Liaison Office may help the department improve its relationships with community providers. The department admits that it does not have a comprehensive and integrated system for contracting with community providers and often these contracts lack oversight, monitoring, and performance measurements. The department is currently working on an inventory of the CDCR-funded services in the community, identifying other state-funded services, and eventually identifying other services in the communities. After this inventory is complete, the department plans to identify gaps in services that are most important to ensuring successful offender re-entry.

Finally, staff finds that the department is currently embarking on an ambitious effort to greatly improve on the size and scope of rehabilitation efforts delivered in our state prison system. This type of effort will require significant development and coordination as the department moves into the implementation phase. The department needs dedicated staff to lead these efforts in cooperation with custody staff to ensure the efforts are implemented successfully.

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

- Concur with the department's planned use of funds already appropriated in AB 900 for the prison-to-employment office.
- Approve an augmentation of $2.9 million to support additional rehabilitation staff.

9. Proof Project

Background. The department has also started developing the Proof Project at California State Prison, Solano. This project will be used to test and demonstrate implementation of the California Logic Model recommended by the Expert Panel. The department has formed cross-jurisdictional teams to implement this site-specific project and has developed a governance structure to establish clear lines of authority and facilitate appropriate and timely decision making. This effort will ultimately be expanded to the Deuel Vocational Institution, the Northern California Reentry Facility in Stockton, and Parole Region I.

Governor's Budget. The Governor's budget includes $5 million to support development of the pilot project to implement the California Logic Model. This funding will be provided by the appropriation contained in AB 900.

Staff Comments. The department admits that the $5 million proposed for the Proof Project is a placeholder. Staff finds that the department does need some level of flexibility to solve problems as they come up in the implementation of the Proof Project. The expansion of rehabilitation programs has often been thwarted in the implementation stage because of the significant competing priorities and issues that are unique in a correctional setting.

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

- Concur with the department's planned use of funds appropriated in AB 900.
- Approve supplemental report language to require an update on the implementation of the Proof Project by September 1, 2008 and March 1, 2009.

10. Office of Research—AB 900 Implementation Support

Background. The Office of Research carries out short-term and long-term process and impact evaluations for programs within CDCR; conducts research projects to enhance the classification of offenders according to their treatment needs and risks; conducts research designed to assess institutional program needs; and provides research-based information to CDCR administrators, staff, and others outside the department.

The department indicates that the Office of Research is involved in all aspects of implementing the new rehabilitative programming approach. The Office has been involved in validating the COMPAS tool for the California population and is embarking on a comprehensive evaluation of all of CDCR's rehabilitative programming efforts.

The Office of Research had suffered significant reductions over the past decade, which reduced its ability to evaluate program effectiveness and maintain data essential to measuring program effectiveness. Approximately $3.5 million was added to restore resources to the Office of Research in the 2006 Budget Act. These funds were augmented in the current year by $1.7 million in order to add evaluation components to several of the Reducing Recidivism Strategies that were funded in the 2006-07 and 2007-08 fiscal years.

Governor's Budget. The Governor's budget proposal includes $1 million to support 10 new positions in the Office of Research that will enhance the collection, validation, and reporting of data associated with AB 900.

Specifically, the positions will enable the department to establish two new divisions within the Offender Information Services Branch of the Office of Research. The new divisions will be the Systems Development Unit that will improve the current data collection systems and the Data Collection and Validation Unit that will improve the collection and validation of data and train persons responsible for collecting and entering data.

Staff Comments. Staff finds that one of the key evidence-based practices is the identification and measurement of outcomes and progress. The Office of Research is able to provide this important research that will allow the department to make smart investments in effective programs and modify or eliminate programs that are not effective.

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

- Approve this budget proposal.

11. Rehabilitation Incentives

Background. The department is required by AB 900 to implement a system of incentives designed to increase participation in rehabilitation programs and encourage inmates to complete educational goals.

The department has reported that it has developed a plan to create a menu of core practices and best practices that can be implemented by wardens. The menu of incentives includes reinstatement of the privilege card system, enhanced yard time, night yard, expanded visiting, additional quarterly packages, additional canteen, first access to canteen, and others. This effort is already underway in conjunction with Adult Institutions.

Staff Comments. Staff finds that the department's incentive program may help to provide more incentives for inmates to program. Staff finds that improving rehabilitation incentives could also improve safety in the institutions.

Staff finds that the good-time credit changes proposed by the Expert Panel would be more effective at providing inmates with incentives to participate in rehabilitative programming. In addition, these changes would also reduce the inmate population in a manner that minimizes public safety risks, especially when compared to the Governor's early release proposal. These good-time credit changes were discussed at the March 12 meeting of this Subcommittee and are summarized below:

- **Earned Credits for Offenders that Complete Rehabilitation Programs.** The CDCR currently provides *earned* credits to offenders who: (a) the CDCR assigns to conservation camps to fight fires and perform other prison jobs (Work Incentive Program) and (2) participate in the Bridging Educational Program. Offenders that complete other rehabilitation programs do not receive earned credits.

  The Expert Panel recommended that California enact laws that would allow the CDCR to award earned credits to offenders who complete any rehabilitation program, such as substance abuse treatment or life skills development, in accordance with their behavior management plans. The Expert Panel finds that these credits would provide motivation for offenders to participate in and successfully complete assigned rehabilitation programs to earn reduced sentences. The Expert Panel notes that participation in evidence-based rehabilitation programs will reduce recidivism and result in improved public safety outcomes.

- **Replace Work Incentive Program Credits with Statutorily-Based Good Time Incentive Credits.** California's Determinate Sentencing Law allows offenders to earn, with some exceptions, as much as a day-for-day "good time" rate (50 percent reduction), but only if they are able to receive Work Incentive Program credits. While most offenders are eligible to receive the day-for-day Work Incentive Program credits, because of program capacity limits, they cannot access the work programs. In most cases offenders are assigned to these work programs on a first-come first-served basis.

  The Expert Panel recommended that California enact a law that would allow CDCR to grant good time credits to those offenders that comply with institutional rules in prison. These good time credits would provide motivation for prisoners to manage their behaviors in prison to earn reduced sentences.

12. Education Information Technology

Background. The C-ROB panel has already identified as a "red flag" the department's lack of information technology resources. The department is currently developing a major offender management system, but this system is still in development. In the meantime, the department currently has no way to report basic data related to inmate education and programming. Data and information on program participation and outcomes are central to implementing evidence-based programming.

Governor's Budget. The Governor's budget proposes $961,464 to support six positions to develop and implement the Education for Inmates Reporting and Statewide Tracking (EdFIRST) project. This project will enable the department to report timely education data on enrollment, program completion, improvement in reading scores, and the relationship between recidivism rates and education programs. The department indicates that this program is an off the shelf program and a feasibility study report has been completed for this project. The project will be funded with the monies included in AB 900 for rehabilitation programming.

Staff Comments. Staff finds that tracking and reporting data about inmate programs is central to implementing evidence-based programming efforts. Staff finds that because this is an off-the-shelf program module the department should be able to integrate it into its larger offender management system once it is developed.

Staff Recommendation. Staff recommends that the Subcommittee concur with the department's planned use of funds already appropriated in AB 900.

13. Community Work Crews

Governor's Budget. The Governor's budget proposal includes $2.4 million General Fund that would grow to $5.8 million in 2009-10 to create inmate community work crews at most prison institutions. These work crews would provide services to local jurisdictions such as litter removal, weed abatement, and minor repairs. The department would not be reimbursed by the local jurisdictions for the services performed by the work crews. This funding would be used to establish 29 correctional officers that would supervise the work crews as well as some one-time costs for equipment.

LAO Recommendation. Currently, the LAO finds that six prisons have community work crews, but local communities reimburse the state for its costs of providing the services. The LAO recommends modifying the department's request for funding related to inmate community work crews to (1) eliminate a General Fund augmentation for these new positions, and (2) reflect funding of the new positions from reimbursements from local jurisdictions. The LAO notes that there may also be additional institutional savings that will occur from providing additional inmates with work opportunities that can earn them work-time credits.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

Division of Juvenile Justice

Juvenile Justice System Background. For the most part, the Juvenile Justice system in California is managed and funded by local government. Following the arrest of a juvenile, law enforcement has the discretion to release the juvenile to his or her parents or to take the suspect to juvenile hall and refer the case to the county probation department.

Generally, probation officials decide how to process the cases referred to them and about one-half of the cases referred to probation result in the filing of a petition with the juvenile court for a hearing. Judges declare the juvenile a ward of the court almost two-thirds of the time. The vast majority of wards (over 98 percent) are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as a juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home.

A small number of wards (under 2 percent annually) are committed to the California Department of Corrections and Rehabilitation's (CDCR) Division of Juvenile Justice (DJJ) (previously known as the California Youth Authority or CYA) and become a state responsibility. The population sent to DJJ is generally the State's most serious and chronic juvenile offenders, but this may vary by county. In addition, juveniles tried in adult criminal court for particularly serious or violent crimes are placed in a DJJ facility until their 18th birthday, at which time they are transferred to state prison for the remainder of their sentence. The CDCR currently operates eight juvenile correctional facilities and one conservation camp. However, the CDCR is in the process of closing two juvenile facilities in the current year.

Governor's Budget Summary. The Governor's budget proposal includes $488 million to fund DJJ institution and parole operations. This is about $87 million or 15 percent less than estimated expenditures in the current year due to legislation (Chapter 175, Statutes of 2007 [SB 81, Budget]) enacted in 2007 to restrict the ability of counties to send non-serious non-violent juveniles to state DJJ facilities. The per capita costs for youths incarcerated at DJJ facilities are projected to be $252,312 in 2008-09.

The budget proposes a significant realignment of program expenditures in the budget year to reflect more accurate tracking of DJJ expenditures.

The budget display also includes the new grant program authorized as part of SB 81 to provide counties with funding to support the youthful offenders no longer eligible for commitment to state DJJ facilities. These grants are expected to increase by $42 million in the budget year to account for the growing number of youth that would stay locally under the legislation. Even with the expected growth of this block grant subvention, overall state expenditures on juvenile offenders are expected to decline because of reduced population and the closure of two DJJ facilities (DeWitt Nelson Youth Correctional Facility and El Paso De Robles Youth Correctional Facility).

Summary of Expenditures (dollars in thousands)	2007-08	2008-09	$ Change	% Change
Type of Expenditure				
Juvenile Operations	207,528	283,552	76,024	36.6
Juvenile Education and Programs	205,133	84,531	-120,602	-58.8
Juvenile Parole	39,170	35,501	-3,669	-9.4
Juvenile Healthcare	122,604	84,026	-38,578	-31.5
DJJ Subtotal	***$574,435***	***$487,610***	***-86,825***	***-15.1***
SB 81 Local Block Grant	23,856	66,247	42,391	177.7
Total	**$598,291**	**$553,857**	**-$44,434**	**-7.4**

Facility Closure Update. The state will close two DJJ facilities in the current year. The El Paso De Robles Youth Correctional Facility will close by May of this year and the DeWitt Nelson Youth Correctional Facility will close by June of this year. As of April 15, there were 58 youth remaining at El Paso De Robles and 126 youth at DeWitt Nelson. The department reports that it is making plans to transfer the remaining youth to other facilities.

The department has announced that it is pursuing the re-purposing of the El Paso De Robles Youth Correctional Facility as an adult facility. There are no formal plans for the DeWitt Nelson Youth Correctional Facility, but this facility is currently being evaluated as one of the sites that the Receiver may select to site a Consolidated Care Center.

***Farrell* Lawsuit Update.** In 2004, the state settled *Farrell v. Tilton* that alleged poor conditions of confinement and a lack of treatment services for youth housed in DJJ institutions. As a result of this lawsuit, the state agreed to review the entire system and reform the programs provided to juvenile offenders. Beginning in 2005-06, the DJJ began implementing reforms as stipulated by the *Farrell* consent decree in the following areas:

- Mental Health
- Sex Behavior
- Disability
- Education
- Medical Care
- Safety and Welfare

The state has allocated about $125 million General Fund ongoing, to date, to comply with the *Farrell* lawsuit. However, overall expenditures for DJJ have declined and are projected to decline further as the population continues to be reduced due to the realignment implemented last year and other factors.

Given the realignment and the planned closure of two DJJ facilities, the department is in the midst of realigning the population among its remaining six institutions to ensure continued progress in complying with the *Farrell* lawsuit.

The state continues to work towards complying with the reforms stipulated by the *Farrell* consent decree. However, the plaintiffs in the *Farrell* case have called for the appointment of a Receiver to oversee and direct the department to comply with the remedial plans. A hearing was held last week to hear arguments for and against the appointment of a Receiver in the *Farrell* case.

The following section summarizes some of the actions taken by the department to bring DJJ facilities and programs into compliance with *Farrell* remedial plans.

1. Safety and Welfare Remedial Plan

Background. The safety and welfare remedial plan was required by the November 2004 Consent Decree that the state entered into in the *Farrell* lawsuit. The latest plan was submitted to the court in July 2006. This plan is guided by the following six principles:

- Provide safe, secure facilities.
- Provide effective rehabilitative treatment to reduce recidivism.
- Prepare youth for re-entry to the community and provide opportunities to address personal, social, physical, educational, and vocational needs.
- Strengthen the juvenile justice continuum, through collaboration with stakeholders, communities, and families.
- Implement restorative justice practices to ensure rehabilitation includes accountability to victims, the community, and themselves.
- Continuously evaluate program quality, outcomes, and effectiveness.

Immediate and Phase I Efforts. The 2006 budget change proposal for the Safety and Welfare Remedial Plan identified immediate and Phase I efforts as follows:

- Hire consultants to develop strategies for the following issues: (1) classification, (2) normative culture, (3) substance disorders, (4) violence reduction, (5) aggression replacement, (6) conflict resolution, (7) gang integration, (8) female offenders, and (9) re-entry.
- Issue a request for proposals for a risk/needs assessment and implement a new assessment tool.
- Identify potential providers for female offenders and issue a request for proposal for services/programs for female offenders.
- Begin converting N.A. Chaderjian Youth Correctional Facility to a specialized treatment facility.
- Implement reforms on 20 living units (reduce housing unit size and increase staffing), targeting behavior treatment programs and core rehabilitation/treatment units.

Update on Implementation. The department indicates that it is in various stages of implementing the safety and welfare remedial plan. The following is a partial list of what the department has accomplished to date:

- The department is developing the California Youth Assessment Screening Inventory, which allows DJJ to assess the specific risks for recidivism and treatment service needs of each youth and identify and develop intervention and treatment plans tailored to the needs of each youth.
- The department is also developing an Integrated Behavior Treatment Model to ensure that interventions are developed to address the risks and needs identified.
- The Ward Information Network has been implemented at all DJJ sites to track information on wards.
- The department has developed an interim classification system to classify all youth based on low risk and high risk for facility violence and the youth have been separated accordingly.
- The department has implemented performance based standards based on a national model at all of the institutions. This includes identifying one person at each institution that will collect the data and one person at headquarters that will compile and analyze the data submitted by headquarters.
- The department has started the development of the Program Service Day to implement a structured schedule to ensure all mandated services are provided in an efficient manner with minimal scheduling conflict. The Program Service Day will be piloted at Preston Youth Correctional Facility.
- The department has trained 1,600 staff in evidence based programs, crisis management, aggression replacement, conflict resolution and mediation, and motivational interviewing.
- The department has re-issued a request for proposal for secured residential placement and treatment for female offenders committed to DJJ.
- The department has participated with Family Justice in an initiative to explore the nature of family connections with youth at DJJ.
- The department has developed numerous policies related to access to the courts and law library, confidential visitations, and confidential telephone calls.

Governor's Budget. The Governor's budget has two budget proposals to support the state in compliance with the *Farrell* lawsuit. These proposals are as follows:

- **Information Technology.** The budget proposal includes $1.1 million from the General Fund to support 7.5 positions to support the DJJ information technology and infrastructure required for implementation of the Safety and Welfare Remedial Plan.

- **Policy and Regulation Development.** The budget proposal also includes $513,000 from the General Fund to support six 2-year limited-term positions to support the development of over 600 policies and regulations that need significant revisions as a result of the *Farrell* lawsuit. These policies and regulations address issues in all six of the remedial plans.

Staff Comments. Staff finds that the information technology support is critical to implementing evidence-based policies and practices required by the *Farrell* lawsuit. Furthermore, staff finds that revising regulations and policies is critical to ensuring that reforms implemented as part of *Farrell* become part of the culture and practice of the DJJ institutions.

Staff Recommendation. Staff recommends that the Subcommittee approve the two *Farrell*-related budget proposals included in the Governor's budget.

2. Education Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree required DJJ to improve the quality of education provided to wards in DJJ facilities. The department has prepared an educational remedial plan that was adopted by the court in 2005.

The plan is committed to establishing the following student-to-teacher ratios for various categories of wards:

- Regular education ratio decreases from 15:1 to 12:1
- Special Day Classes (designated as special education) ratio decreases from 12:1 to 10:1
- Restricted program wards get a new ratio of 5:1

Furthermore, the plan also specifies that teacher assistants be provided at a ratio of 12:1 for the English language learner population. Teacher assistants are also provided for each Special Day Class teacher, resource specialist, and two assistants are assigned to each restricted program. Furthermore, every ward with additional learning needs is provided with 104 hours a month of services from a resource specialist, school psychologist, and language, speech, and hearing specialist. Every high school serving a restricted population will have at least two school psychologists. One school psychologist is also provided to parole.

Update on Implementation. The department indicates that it is in various stages of implementing the education plan and in the latest round of auditing the department was found to be nearly 70 percent compliant with the education remedial plan. The following is a partial list of what the department has accomplished to date:

- The department has established Alternative Behavior Learning Environment classrooms at each school to provide youth with behavior problems in school an opportunity to remain in school.
- The department has seen an increase in the number of youth that received a high school diploma, a vocational certificate, a GED, and enroll in college even though there has been a reduction in the overall population.
- A student/ward school attendance tracking system has been implemented.
- A pay increase for teachers at DJJ was approved by the Department of Personnel Administration that took effect on April 1, 2006, and the department has hired teachers to fill its vacancies. The school year was also reduced from 247 days to 220 days to improve the ability to recruit teachers by aligning the school schedule with other schools.

3. Mental Health Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree requires DJJ to improve the quality of mental health services provided to wards in DJJ facilities. The department has developed a mental health care remedial plan that was filed with the court in 2006.

The mental health remedial plan is a plan for providing comprehensive and integrated mental health services based on evidence-based standards of mental health care to juveniles served by DJJ. This includes:

- Screening
- Diagnosis
- Psychometric Assessments
- Psychotherapeutic and Pharmacotherapeutic treatment
- Consultation Services to direct care and other staff
- Leadership of clinical programs operating within a continuum of care in a variety of settings

The main principle governing treatment will be that the youth be allowed to function in the least possible restrictive environment, which they are capable of, but still ensure safety and personal growth.

Update on Implementation. The department indicates that it is in various stages of implementing the mental health plan. The following is a partial list of what the department has accomplished to date:

- Established two licensed mental health facilities.
- Contracted to use the mental health assessment tool Voiced Diagnostic Interview Schedule for Children on all youth at intake.
- Improved tracking of mental health data and implemented a dispute resolution protocol for disputes between custody and health care staff.
- Developed a new suicide watch policy, which is currently being piloted, that incorporates contemporary standards and provisions for staff training.
- Developed a new Forensic Evaluation Policy.
- Reduced living unit size to no more than 30 for most mental health treatment units. (The majority of these units will be further reduced when the reforms called for in the remedial plan are fully implemented.)

4. Sex Behavior Treatment Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Degree required DJJ to improve the treatment provided to sex offenders in DJJ facilities. The department has prepared a sex behavior treatment program that was approved by the court in 2005 and is a 12-stage program that will standardize the process, assessment, and treatment of offenders from intake through parole. It implements a model and curriculum that encompasses all levels of the mental health continuum of care and can be customized for the needs of each offender.

Update on Implementation. The department indicates that it is in various stages of implementing the sex behavior treatment plan. The following is a partial list of what the department has accomplished to date:

- The department is currently field testing the Static 99, which is a standardized risk assessment tool used to identify treatment needs.
- The department has contracted to develop treatment curricula for residential and outpatient programs and a sexual education curriculum entitled "Healthy Living".
- The department has trained staff on the use of two sex offender risk assessment tools.
- Staff has attended various conferences and training on best practices on sex behavior treatment.

5. Health Care Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree requires DJJ to improve the quality of health provided to wards in DJJ facilities. The department has developed a health care remedial plan that was filed with the court in 2006.

The guiding concepts of the revised health care operations are the following:

- Create a centralized state medical leadership with the ability to establish health care policy for DJJ and implement and monitor health services at all facilities and supervise health services staff.
- Develop standardized policy and procedure that matches the needs of the youth and conforms to an acceptable national standard of medical and nursing care.
- Develop a system of auditing staff performance against the newly implemented policy and procedure.
- Establish a program that fosters linkages to university-based programs, public health agencies, and other youth facilities to which youth may be transferred or from which they may be accepted.

Update on Implementation. The department indicates that it is in various stages of implementing the health care remedial plan. The following is a partial list of what the department has accomplished to date:

- Improved health record tracking.
- Filled the majority of headquarters health care leadership positions and health care administrator positions.
- Developed 32 policies with the remedial plan experts to ensure the provision of adequate, timely, appropriate health care.

6. Wards with Disabilities Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree required DJJ to make accommodations for wards with disabilities. The department has prepared a wards with disabilities program remedial plan that was adopted by the court in 2005.

The goals of the disability remedial plan are the following:

- Assure equality of opportunity and full participation for disabled wards in all department services, programs, or activities.
- Assure the elimination of discrimination against individuals with disabilities within DJJ.
- Provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.

The plan also requires the department to screen all wards, upon intake, to determine if they have a developmental disability. (Developmental disabilities include mental retardation, cerebral palsy, epilepsy, autism, or other neurological disabilities.)

Update on Implementation. The department indicates that it is in various stages of implementing the wards with disabilities remedial plan. The following is a partial list of what the department has accomplished to date:

- Transportation equipment for transporting disabled youth has been purchased.
- Auxiliary aids for hearing impaired have been purchased for each facility.
- Corrective Action Plans have been completed for all facilities.
- Each facility has a sign language contract in place.
- Each facility has a wards with disabilities program coordinator.
- Staff has attended disability awareness training and a training module has been created for the Basic Cadet Academy.

7. DJJ Population Estimate

Population Estimate. As of June 30, 2007, 2,516 wards reside in DJJ facilities. The department forecasts that the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year.

As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent.

Governor's Budget. The Governor's budget requests an additional $3.1 million in the current year to fund the juvenile population due to unexpected delays in the closure of DeWitt Nelson Youth Correctional Facility. However, the Governor's budget expects a reduction of $57 million General Fund in the budget year due to the projected population decline at DJJ.

The Governor's budget also proposes to realign program expenditures in the budget year to reflect more accurate tracking of DJJ expenditures.

LAO Recommendation. The LAO finds that the juvenile population may be slightly lower than projected in the Governor's budget. Specifically, the LAO thinks that funding for DJJ could be reduced by $4 million in the current year and an additional $9 million in the budget year.

Staff Comments. Staff finds that the population estimate for DJJ is confusing and does not promote transparency. Furthermore, staff appreciates the effort to better realign expenditures to appropriate categories, but the realignment cannot be easily explained by the supporting documentation provided with the budget proposal. Staff finds that more needs to be done to simplify and streamline the DJJ population estimate to improve accountability for state expenditures.

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

- Hold this issue open.
- Approve budget bill language to direct CDCR to work with the Department of Finance and the Legislature to improve the transparency and organization of the DJJ population estimate.

8. *LH* Lawsuit Compliance—Juvenile Parolee Due Process

Background. The *LH* lawsuit is a class action lawsuit alleging that California's parole revocation process violates the due process clause of the U.S. Constitution. Specifically, the plaintiffs in the lawsuit assert that the current revocation hearing process is not timely and existing procedures unlawfully restrict the appointment of counsel and appearance of witnesses at revocation hearings.

In September 2007, the federal court found the state in violation of due process rights provided in the U.S. Constitution and ordered the department to develop a plan to remedy this violation within 30 days. On January 29, 2008, the court ordered the department to take specific actions related to this case. These actions include the following:

- On or before February 15, 2008, counsel shall be appointed to represent every juvenile parolee in parole revocation proceedings.
- Counsel shall be provided with access to files at a time sufficiently in advance of the probable cause hearing.
- Counsel shall be provided with reasonable access to their clients.
- Juvenile parolees may obtain counsel of their own choosing and such counsel shall have the same rights, except pay, as appointed counsel
- The department shall ensure effective communication to all juvenile parolees throughout the parole revocation process.
- The department shall develop draft policies and procedures by March 15, 2008, to ensure compliance with the Americans with Disabilities Act in parole revocation proceedings.

The department has indicated that they expect a follow up court order that will direct the department to take additional actions to address the deficiencies found in the *LH* lawsuit.

Current Year Funding. The Governor's budget and a current year Finance Letter (dated January 18, 2008) requests $2 million General Fund in the current year to start to comply with the *LH* lawsuit. This funding would provide partial year support for 29 positions (24 positions in Juvenile Parole Operations and five positions for the Juvenile Parole Board). The funding will also support an expanded contract for attorney services and the purchase of recording equipment.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) proposal requests $3.2 million General Fund in the budget year to comply with the *LH* lawsuit. The funding will support the full-year costs for the 29 positions proposed to be established in the current year. The augmentation contained in the Finance Letter ($309,000) supports the costs of attorneys to represent the youth in the new parole revocation process being directed by the *LH* lawsuit.

Staff Comments. Staff finds that the underlying nature and proposed remedy for the *LH* lawsuit is very similar to the *Valdivia* lawsuit that addresses due process rights for adults in the parole revocation process. Even though the court has not made specific orders related to some of the remedies included in this budget proposal, staff finds that these remedies are likely given the state's experience in the *Valdivia* lawsuit.

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

Farrell Related Capital Outlay

Background. In 2004, the state settled the *Farrell* lawsuit that alleged poor conditions of confinement and lack of treatment services for youth housed in DJJ institutions. Modifications to existing facilities were needed to comply with the lawsuit. For example, the current juvenile institutions do not have adequate or appropriate space to house these staff and/or space for these staff to deliver programming.

The 2006 Budget Act allocated $18.2 million ($2.9 million federal funds) to help address DJJ's facility deficiencies. These funds were used to fund the design of eight Behavioral Treatment Programs, upgrade telecommunications infrastructure, design a new prototypical 280-bed core treatment facility, and purchase and install Prison Industry Authority (PIA) modular units to provide treatment space and classroom space. Unfortunately, five of the 14 modular units funded with these resources were installed at DeWitt Nelson Youth Correctional Facility, which is now scheduled to close at the end of the current fiscal year.

The 2007 Budget Act included $10 million General Fund to purchase additional PIA modular units ($6.5 million) and for other minor capital outlay projects ($3.5 million). The Budget Act also included budget bill language to require that CDCR report to the Joint Legislative Budget Committee on the projects it will pursue prior to expending these funds. To date, the Joint Legislative Budget Committee has not received notification from the department on how it plans to expend the funds allocated in the current year.

Juvenile Facility Planning. Last year this Subcommittee expressed concern about what appeared to be a lack of planning for how the department would manage its current portfolio of juvenile facilities. The 2007 Budget Act included budget bill language that required the department to develop a juvenile facilities master plan to be submitted to the Legislature by October 31, 2007. The budget also included budget bill language to require that the department reconcile the juvenile facilities master plan with the operational master plan being developed by the Commission on Juvenile Justice. The Legislature has not received a juvenile facilities master plan as requested.

The CDCR submitted its overall master planning document to the Legislature in March. This document included a section on the juvenile facilities. However, it did not include sufficient details to constitute a plan. The department has indicated to staff that it has retained a consultant to develop a juvenile facilities master plan. However, the outcomes of this work have not been provided to the Legislature. The department has indicated to staff that the master plan for the DJJ facilities may be submitted to the Legislature for review by the end of May.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) allocate $2 million General Fund to support capital outlay projects to help comply with the *Farrell* lawsuit. These projects are summarized below:

- **Sex Behavior Treatment Program Counseling Building #1.** The Governor's budget proposal includes $419,000 to finish construction of a counseling building at N.A. Chaderjian Youth Correctional Facility that will provide group counseling space, individual counseling space, offices, and storage to support a Sex Behavior Treatment Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the building would exceed the minor capital outlay limit ($400,000). The department has already invested $303,000 in this project and construction is currently about half complete.

- **Sex Behavior Treatment Program Counseling Building #2.** The Governor's budget proposal includes $517,000 to finish construction of a counseling building at N.A. Chaderjian Youth Correctional Facility that will provide group counseling space, individual counseling space, offices, and storage to support a Sex Behavior Treatment Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the building would exceed the minor capital outlay limit. The department has already invested $219,000 in this project and construction is currently about half complete.
- **Behavior Treatment Program.** A Finance Letter requests $516,000 to finish remodeling the dayroom at the Inyo Living Unit at O.H. Close Youth Correctional Facility to add two education/treatment rooms to support a Behavior Treatment Program. This project was proposed as a minor capital outlay project in 2006, but during design it was determined that the project would exceed the minor capital outlay limit. The department has already invested $18,415 on the design of this project.
- **Specialized Counseling Program.** A Finance Letter requests $517,000 to finish expansion of the Humboldt Annex at O.H. Close Youth Correctional Facility to create a group counseling room, office space for clinical staff, and storage to support a Specialized Counseling Program. This project was started as a minor capital outlay project in 2006, but during construction it was determined that the costs of the expansion would exceed the minor capital outlay limit. The department has already invested $235,425 on this project and construction is 22 percent complete.

Staff Comments. Staff finds that the *Farrell* reforms required the department to hire a significant number of new teachers and treatment staff to implement the remedial plans and there are treatment and office space shortages at all of the institutions. Staff finds that the department has still not put forward a plan for the monies provided in the current year for *Farrell*-related capital outlay. However, staff has been informed that the department will be submitting a plan for these monies before the May Revision.

Furthermore, staff finds that the department has consistently under-estimated costs associated with these projects, which has resulted in the department starting and stopping construction. Staff finds that this is an inefficient process and more should be done to put forward more accurate cost projections prior to starting construction.

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

- Hold this issue open pending receipt of the department's expenditure plans for the current year allocation.

Other Capital Outlay

1. Statewide Project Planning

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

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

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

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

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

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

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

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

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

2. Solid Cell Fronts

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

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

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

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

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

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

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

3. Folsom State Prison – Officers and Guards Building

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

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

Governor's Budget. The Governor's budget proposal includes $6.3 million General Fund for construction costs associated with converting the historic Officers and Guards Building at Folsom State Prison into office space for prison administrative staff and inmate records personnel.

The Legislature has appropriated $780,000 General Fund since the 2006 Budget Act to support planning for this remodel. The total estimated project cost is $7.1 million.

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

Staff finds that this project may be eligible for lease-revenue bonds.

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

- Hold this issue open.
- Request DOF to make a determination as to whether this project is eligible for lease-revenue bond financing.

4. Folsom State Prison – Renovate Electrical System

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

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

This project has started and stopped many times since 1999. To date, the Legislature has appropriated $34,000 to support planning efforts for this project. The total estimated project cost is $1.9 million.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

5. Minor Capital Outlay

Governor's Budget. The Governor's budget proposal includes $7.5 million General Fund. The department has not put forward specific details on the projects to be funded with these monies.

Staff Comments. Staff finds that there are many facility needs in the prison system. However, staff notes that this Subcommittee had considerable concerns last year about the lack of information provided by the department on the projects proposed for funding as minor capital outlay projects. The department has indicated to staff that it is working on proposals and will be providing them to the Legislature soon.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

6. California Rehabilitation Center – Replace Dorms

Background. There are 28 100-bed dorms at the California Rehabilitation Center. These dorms were originally constructed in the 1940s by the Navy as temporary hospital wards. These buildings are wood construction and are seriously deteriorated. For example, the bathroom floors are rotting, the plumbing is worn out, and the buildings contain significant levels of asbestos.

The department has proposed to replace all 28 of these dorms over a number of years with 16 200-bed prototypical emergency bed dorm housing units. This plan would provide the department with 400 additional dorm beds.

Governor's Budget. The Governor's budget proposes $15.3 million General Fund to support the construction ($15 million) of four new 200-bed dorm housing units and the working drawings ($343,000) to construct three additional 200-bed dorm housing units.

This multi-phase project was started in 1998 and to date the Legislature has appropriated $9 million to develop preliminary plans for all phases, working drawings for the construction of the first five dorm housing units, and construction of the first 200-bed dorm housing unit. The total estimated project cost is $67.7 million. This project will augment the department's bed capacity by 400 additional dorm beds.

Staff Comments. Staff finds that these facilities are badly deteriorated and pose health and safety issues for the inmates and staff. These dorm projects are similar to some of the projects proposed for funding under Chapter 7, Statutes of 2007 (AB 900, Solorio). However, they are not being constructed with the programming space and health care space needed to comply with AB 900 and court mandates.

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

- Hold this item open.
- Request that the department report back to the Subcommittee on what programming space would be needed to make this facility compliant with AB 900.
- Request DOF to make a determination as to whether this project is eligible for lease-revenue bond financing.

7. Ironwood State Prison – Ventilation System

Background. In the late 1980s and early 1990s the state built four prisons in the remote areas of Imperial County near Blythe and El Centro. Two of these prisons were constructed with an evaporative cooling system that prematurely deteriorated. The department reports that the evaporative cooling systems installed were undersized and were not well adapted to the extreme temperatures in this area of the state. Furthermore, the systems are located on the roofs of the housing units and have leaked and caused extensive damage to the roof and walls of the housing units, which could compromise the structural integrity of the building. Finally, the cooling units are not designed to generate enough air flow, which regularly results in housing unit temperatures in the summer that are well over the CDCR guideline of 92 degrees Fahrenheit.

The CDCR has replaced the evaporative cooling systems with closed looped chilled water heating, ventilation, and air conditioning systems at Chuckawalla Valley State Prison. Ironwood State Prison still has the old evaporative cooling system.

Governor's Budget. The Governor's budget proposal includes $5.8 million General Fund to support the preliminary plans to replace the existing evaporative cooling system with closed looped chilled water heating, ventilation, and air conditioning systems for all housing units and support buildings at Ironwood State Prison.

The total estimated project cost is $145 million.

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

8. California Men's Colony – Kitchen Replacement

Background. The kitchen at the West facility of the California Men's Colony was constructed in the 1940s using wood construction. Surveys by engineering firms in 1992 and 1995 found significant water damage had compromised the structure because of the wood construction and the years of use. In addition, two surveys conducted in 2006 found moderate to severe mold infestation in the kitchen and the dining areas. To date, some rooms in the kitchen have been sealed off and are no longer in use because of the high concentration of mold. The department also has indicated that over 25 percent of the floor area is severely affected by water damage.

The West facility currently houses 2,800 Level I and Level II inmates. Inmates have been housed in this facility continuously since 1984 without any major modifications to improve the kitchen facility.

Finance Letter. A Finance Letter (dated April 1, 2008) proposes to revert $10.3 million in lease-revenue bonds allocated in the current year for construction of this project. The letter also requests that $15.3 million in lease-revenue bonds in the budget year to augment funding for working drawings ($992,000) and increased construction ($14.3 million) costs. The department indicates that the additional funding is needed to update the working drawings that were originally completed in 1999 and proceed to construction.

The Legislature has allocated $789,000 since 1998 for this project, which has been delayed several times. The total estimated project cost is $16.1 million.

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

9. Waste Water Treatment Plant Upgrades

Background. Overcrowding at the adult institutions has significantly impacted existing infrastructure systems, most notably, wastewater systems. These systems are often required to operate at or above the maximum intended capacity, resulting in an increased health and safety risk to CDCR staff, inmates, the public, and the environment. Overcrowding the prison sewage and wastewater systems has caused the discharge of waste beyond treatment capacity, resulting in sewage spills and environmental contamination. These spills can contaminate groundwater drinking supplies and place the public's health at risk. Furthermore, the department's wastewater issues have already resulted in multiple fines, penalties, and notices of violation to the CDCR from environmental control agencies (mainly the Regional Water Quality Control Boards).

Current Year Projects. The department has submitted letters to the Joint Legislative Budget Committee in 2007 to fund two Waste Water Treatment Plant (WWTP) projects from the General Fund support allocated in Chapter 7, Statutes of 2007 (AB 900, Solorio). These projects are as follows:

- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** The department requested to allocate $6.1 million for construction of numerous upgrades to the WWTP that serves both of these prisons.

  Lease-revenue bond financing was provided to support this project in the 2007 Budget Act. The Governor vetoed the lease-revenue bond funding because the nature of the project made it difficult to finance with lease-revenue bonds. The veto message directed that the department fund this project out of the General Fund appropriation provided in AB 900 for infrastructure.

This project was started in 2005 and $554,000 was allocated from the General Fund to plan for this project. The total estimated project cost is $6.1 million.

- **Centinela State Prison.** The department requested to allocate $6.5 million for construction of various upgrades to the WWTP at this prison.

  Lease-revenue bond financing was provided to support this project in the 2007 Budget Act. The Governor vetoed the lease-revenue bond funding because the nature of the project made it difficult to finance with lease-revenue bonds. The veto message directed that the department fund this project out of the General Fund appropriation provided in AB 900 for infrastructure.

  This project was started in 2005 and $988,000 was allocated from the General Fund to plan for this project. The total estimated project cost is $7.5 million.

The department also submitted a letter to the Joint Legislative Budget Committee in 2007 to request that $15.9 million from the General Fund allocation contained in AB 900 be allocated to implementing water conservation devices at 15 institutions. The department estimates that over 25,000 cells would be retrofitted by this effort and would improve water use efficiency and reduce the strain on the department's WWTP infrastructure.

Governor's Budget and Finance Letter. The Governor's budget proposal and a Finance Letter (dated April 1, 2008) propose funding for the following Waste Water Treatment Plant (WWTP) upgrades:

- **Chuckawalla Valley State Prison/Ironwood State Prison.** The Governor's budget proposal includes $23 million General Fund for construction costs to rehabilitate the WWTP that serves both of these prisons. The scope of this project was changed considerably in 2007 to comply with requirements of the Colorado River Basin Regional Water Quality Control Board. The project now entails rehabilitating two trickling filters, paving portions of sludge drying beds, constructing a solid storage pad, and replacing pumps.

  The Finance Letter proposes to increase the amount provided for construction by $2.3 million. The increased costs reflect a more detailed scope and schedule obtained during the recent completion of preliminary plans.

  Funding this project will prevent future violations and the potential issuance of a Cease and Desist Order from the Colorado River Basin Regional Water Quality Control Board. This project was started in 2006 and $1.7 million has been appropriated by the Legislature in past budgets to plan for this project. The total estimated project cost is $24.7 million.

- **Mule Creek State Prison.** The Governor's budget proposal includes $542,000 General Fund to support working drawings to make numerous upgrades to the WWTP at this prison. This project includes constructing a secondary clarifier, a mixed splitter box, a chlorine contact basin, and a disinfected secondary effluent pump station.

This prison was issued a Notice of Violation by the Regional Water Quality Control Board in September 2006 and a Cease and Desist order in December 2006 outlining various violations. This project was started in 2007 and $390,000 was allocated for preliminary plans. Total costs for this project are estimated to be $6.6 million.

- **California Rehabilitation Center.** The Governor's budget proposal includes $113,000 General Fund for preliminary plans and working drawings to install a bar screen and two chopper pumps in the sewer discharge line at the California Rehabilitation Center.

  This prison was issued a Consent Order by the Santa Ana Watershed Project Authority in January 2007 for exceeding discharge limits. The department has already paid over $350,000 in fees over the last year because of these violations. Total costs for this project are estimated to be $949,000.

Water Use Efficiency Important. Staff finds that implementing water use efficiencies can be more cost effective than expanding WWTP facilities. Staff finds that the department has allocated some of the funding provided in AB 900 to implement water conservation devices. However, given the overall magnitude of the overcrowding at some of these institutions, staff finds that water use efficiency will not meet all of the needs of the department. Nevertheless, staff finds that the department should have a policy of pursuing all water use efficiency options before taking efforts to greatly expand an institution's WWTP.

Staff Recommendations. Staff recommends that the Subcommittee take the following actions:
- Approve the budget proposals and Finance Letters proposals.
- Approve supplemental report language that directs the department to develop and put forward options for improving its water use efficiency as an addendum to its 2009 Master Plan.

10. Sierra Conservation Center - Water Supply Treatment Plant

Background. The Sierra Conservation Center is located in the Sierra Nevada foothills near the town of Sonora. The center pre-treats raw water from Lake Tulloch for all uses at the center, including drinking, showering, toilets, and kitchen uses. The current system is inadequate when water turbidity is high and does not meet Department of Health Services primary drinking water standards.

Governor's Budget. The Governor's budget proposal requests $2.6 million General Fund to support construction of a filtration structure for the water supply treatment plant at the Sierra Conservation Center.

This project was started in 2006 and $313,000 has been allocated to plan for this project. The total costs for this project are estimated to be $2.9 million.

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

Coleman Ordered Mental Health Capital Outlay

Background. The Special Master and the court overseeing the settlement of the *Coleman* lawsuit have taken a multi-pronged effort to improve mental health care facilities within the department. The court has pursued interim and temporary measures to improve mental health care facilities in the short-term. Many of these short-term efforts have already been implemented or are currently being constructed.

However, the department has also been working on a long-term Mental Health Bed Plan that will provide a plan for permanent mental health bed capacity that will provide various levels of care. The court adopted the August 2007 version of the department's bed plan in October 2007. This plan expects the following permanent mental health bed capacity to meet the projected mental health population for June 2011:

Expected Permanent Mental Health Bed Capacity	Number of Beds		
by Type of Bed	Female	Male	Total
Enhanced Outpatient Program - Long-term beds for EOP inmates that require significant services to function well.	297	4,552	4,849
Mental Health Crisis Beds - Short-term licensed beds for inmates in mental health crisis that need intensive 24-hour care. Length of stay not to exceed 10 days generally.	25	347	372
Acute - Short-term licensed beds for inmates that require 24-hour mental health treatment to prevent danger to themselves and others. The average length of stay at this level is two to three months.	42	240	282
Intermediate Care Facility - Longer-term licensed beds for inmates that need intensive mental health care services. Length of stay not to exceed nine months.		314	314
Intermediate Care Facility - High Custody - Same as above, but for high custody inmates.		312	312
Administrative Segregation Unit - Housing units for temporary segregation of EOP inmates that are pending investigations, evaluation, and/or disciplinary action. Similar to regular ASU, but with space to deliver treatment services.	24	752	776
Psychiatric Services Unit - Housing units for EOP inmates that have been found guilty of an offense committed in the institution, or have been deemed to be a threat to the safety of others or the security of the institution. Similar to Security Housing Units (SHU), but with space to deliver treatment services.	20	576	596
Total	**408**	**7,093**	**7,501**

The department currently operates some mental health beds that it will continue to operate under this plan. The department also plans to vacate 1,552 existing mental health beds that can be converted to other uses. However, in order to meet the requirements of this bed plan, the department will also need to construct new mental health facilities with the following beds:

New Mental Health Beds to Be Constructed by Type of Bed	**Number of Beds Female**	**Male**	**Total**
Enhanced Outpatient Program	168	2,532	2,700
Mental Health Crisis Beds	3	110	113
Acute	17	90	107
Intermediate Care Facility		230	230
Intermediate Care Facility - High Custody		120	120
Administrative Segregation Unit	15	453	468
Psychiatric Services Unit		256	256
Total	**203**	**3,791**	**3,994**

Consolidated Care Centers. In December 2007 the judges in the *Plata*, *Coleman*, *Perez,* and *Armstrong* lawsuits approved an agreement to coordinate compliance efforts required in each of these lawsuits. The Receiver appointed in the *Plata* case has been designated as the lead in developing and overseeing the implementation of a construction plan that will satisfy the four lawsuits. At the April 14 meeting of this Subcommittee, we heard testimony from the Receiver on his plans to construct up to 10,000 infill beds to satisfy the housing needs of the inmate patient classes represented in the four lawsuits. These beds would be constructed in consolidated care centers at seven different locations located adjacent to urban centers.

This plan contains up to 5,000 beds for patients with mental health conditions, including:

- **Enhanced Outpatient Program – Regular.** 68 percent or 3,400 open dorm beds for enhanced outpatient program inmate-patients.
- **Enhanced Outpatient Program – High Custody.** 18 percent or 900 beds for high-custody enhanced outpatient program inmate-patients.
- **Other Crisis-Type Beds.** 14 percent or 700 other beds that will be a mix of mental health crisis beds, acute beds, an intermediate care facility, and a high custody intermediate care facility.

The plan presented to the Subcommittee on April 14 appears to differ from the plan contained in the Mental Health Bed Plan adopted by the *Coleman* court in October 2007.

Bed Construction Projects Ordered Before Approved Bed Plan. In addition to the beds in the approved Mental Health Bed Plan, the department is also pursuing additional projects that would add additional bed capacity that were directed by separate orders by the *Coleman* court. However, the department has indicated that there still may be some changes to these projects. These projects include:

- 20-bed Psychiatric Services Unit at the **California Institution for Women** – in the planning stage, funding for working drawings proposed in budget.
- 45-bed Acute/Intermediate Care Facility at the **California Institution for Women** – department will pursue this project with $62 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 50 Mental Health Crisis Beds at **California Men's Colony** – department will pursue this project with $59 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 50 Mental Health Crisis Beds at the **California Medical Facility** – construction for this project is complete.
- 64-bed Intermediate Care Facility at the **California Medical Facility** – department will pursue this project with $55 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- Program space to support 150-bed Enhanced Outpatient Program Unit at **California State Prison, Los Angeles County –** department will pursue this project with $11 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.
- 64-bed Intermediate Care Facility at **Salinas Valley State Prison** – construction has started on this facility.
- 70-bed Enhanced Outpatient Program Administrative Segregation Unit at **Salinas Valley State Prison –** department will pursue this project with $52 million in AB 900 medical/mental health bed bond funding; the Legislature has not received notification of this project.

The department estimates that the projects listed above will use $240 million of the $857 million included in AB 900 for medical and mental health beds. The Legislature also allocated $146 million of this funding to support the Receiver's San Quentin project in the current year.

A court order issued in February 2008 by the *Coleman* court confirmed that the coordinated construction agreement for the long-term projects did not relieve the state of their obligation to comply with prior court orders to construct the projects listed above.

Other Capital Outlay Projects. The department is also pursuing several other capital outlay projects to comply with the *Coleman* court. These projects range from renovating administrative segregation unit intake cells to adding additional program and office space to support the mental health programs required under the *Coleman* lawsuit. These projects were funded as minor capital outlay projects, special repair projects, or through prior budget requests and they are all listed in a report in the department's master plan. This report was required by supplemental report language added by the Legislature in 2007 that required a comprehensive listing of all physical plant modifications completed and planned to comply with the *Coleman* lawsuit.

1. California Institution for Women

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated April 1, 2008) requests funding to convert the east wing of the Women Support Care Unit at the

California Institution for Women to a 20-bed Psychiatric Services Unit (PSU). The Governor's budget proposal includes $601,000 General Fund for working drawings to build this new unit. The Finance Letter requests an additional $64,000 for preliminary plans and $82,000 for working drawings to complete the planning for this project. The increased costs are a result of adding additional office and treatment space to the project scope for staff to support the PSU.

The Legislature appropriated $423,000 General Fund to support this project in the 2007 Budget Act. The total estimated project cost is $7 million or $350,000 per bed to convert these beds. This project was court-ordered in March 2007 by the *Coleman* court.

Staff Comments. Staff finds that this project has been specifically ordered by the court. The LAO finds that the department has decided to pursue a project that renovates existing beds, thereby reducing capacity. The LAO notes that one of the alternative projects would add additional capacity and would only be marginally more expensive. The LAO finds that it may be more cost-effective to spend more on the margin to increase bed capacity as opposed to reducing capacity as proposed in the budget.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

2. Salinas Valley State Prison

Finance Letter. A Finance Letter (dated April 1, 2008) proposed funding to support two *Coleman*-related projects at the Salinas Valley State Prison. These projects include the following:

- **Treatment and Office Space to Support 180-Bed Enhanced Outpatient Program.** The Finance Letter includes $1.7 million General Fund to support preliminary planning efforts to add additional treatment and office space to convert an EOP administrative segregation unit to a 180-bed general population EOP unit. This EOP housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court. The EOP administrative segregation inmates currently in this facility will be transferred to a new 70-bed EOP administrative segregation facility that is being completed as part of the approved mental health bed plan.

  The total estimated project cost is $21.8 million to support the treatment and office space needed to support these beds.

- **Intermediate Care Facility Treatment Space.** The Finance letter includes $399,000 General Fund to support preliminary plans and working drawings to convert existing unused dining room space into group therapy space to support the 128-bed Intermediate Care Facility at the prison. This ICF housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court.

  The total estimated project cost is $1.9 million to add the additional treatment and office space needed to support these beds.

Staff Comments. Staff finds that these projects are renovation projects and cannot be funded with lease-revenue bonds. Staff finds that additional treatment space is needed for these units to comply with the *Coleman* lawsuit.

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

3. California State Prison, Sacramento

Finance Letter. A Finance Letter (dated April 1, 2008) proposed $1.2 million General Fund to support preliminary plans to convert unused warehouse space to program, treatment, and office space to support an existing 192-bed EOP housing unit at the California State Prison, Sacramento. This housing unit is part of the court-approved bed plan and requires additional treatment space and office space to support the level of care required by the *Coleman* court.

The total estimated project cost is $15.1 million to renovate the existing warehouse space to provide additional treatment and office space needed to support these beds.

Staff Comments. Staff finds that these projects are renovation projects and cannot be funded with lease-revenue bonds. Staff finds that additional treatment space is needed for these units to comply with the *Coleman* lawsuit.

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

4. Small Management Yards

Background. The CDCR is required, by a court order from the 1970s, to provide at least ten hours per week of out of cell exercise to inmates in administrative segregation. Historically, the department would accommodate this requirement by releasing 15 to 25 inmates at one time into an exercise yard. The department cites that the increased complexity of the administrative segregation inmate population has made it more difficult to release large groups of inmates without the threat of violence. Therefore, several years ago, the department started to construct small management yards.

The small management yards are approximately 150 square feet and can accommodate two inmates at one time. They are made of a metal fencing-type material and have a combination toilet and sink.

The judge overseeing the *Coleman* lawsuit issued an order on May 31, 2007, that the department submit a plan to provide sufficient small management yards to provide for at least ten hours per week of out of cell exercise to all inmates in administrative segregation. The order requires that the plan call for funding and construction of all yards by the end of the 2008-09 fiscal year. The plan also required provisions for better utilization of the existing small management yards and coordination with available staff to maximize yard usage.

The department estimates that as of October 2007, 1,162 small management yards were needed statewide for administrative segregation units. The department indicates that of the total needed (1) 578 had already been constructed, (2) 108 were under construction, (3) 149 were in the design phase, and (4) 327 still needed to be funded.

The 2007-08 Budget Act included $911,000 for preliminary plans and working drawings to add 179 small management yards at the six institutions, including 149 yards for administrative segregation units and 30 yards for the security housing units.

Governor's Budget. The Governor's budget proposal includes $25.4 million General Fund to support the construction of 476 small management yards for administrative segregation units at 26 institutions. This includes funding for the design phase for 327 of the yards. The department does not plan to complete this project until January 2010. This is six months beyond what was ordered by the court.

Staff Comments. Staff finds that the need for additional small management yards could be reduced if the department could determine strategies for reducing its administrative segregation unit population. Staff finds that some inmates continue to be held in administrative segregation for non-disciplinary reasons because the department lacks suitable housing placements for certain populations considered "special needs". Staff finds that the department needs to continue to work towards population management solutions that will reduce its administrative segregation population.

Furthermore, the department recently changed its regulations so that it only has to review placement in administrative segregation every 90 days. In the past the department has done reviews every 30 days. Staff finds that more frequent reviews of the administrative segregation population could reduce the length of stay in these units thereby reducing the number of beds and yards needed for administrative segregation.

In addition, the court order requires the department to develop plans for better utilizing existing small management yards including utilizing the yards on third-watch. Staff finds there is another budget proposal to fund the increased custody costs associated with utilizing the yards on third-watch to get inmates the minimum amount of yard time required by the courts.

The department is still working on additional modifications to this plan that may enable it to meet the deadline set by the court.

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

- Hold this issue open.
- Request the department to report to the Legislature by May Revision on the costs of doing more frequent reviews of inmates in administrative segregation.

Perez Related Dental Care Capital Outlay

Background. In December 2005, the department entered into a Stipulated Agreement to settle the *Perez v. Hickman* lawsuit claiming inadequate dental care in state prisons. This Agreement lowered the ratio of inmates to dentists from 950 inmates to one dentist to 515 inmates to one dentist. Additional treatment space is needed to accommodate this higher level of staffing.

The 2006 Budget Act included $1.7 million General Fund to the department to develop capital outlay plans to add additional dental treatment and office space to implement the *Perez* settlement. In 2007 the Legislature denied $15.1 million General Fund to support preliminary plans for dental and office space at the following seven prisons:

- Avenal State Prison
- Calipatria State Prison
- Centinela State Prison
- Chuckawalla Valley State Prison
- Ironwood State Prison
- Kern Valley State Prison
- Folsom State Prison

These are the first seven institutions where the new lower inmate to dentist ratio is being implemented. The total cost of these projects is estimated to be $285 million and the department's master plan suggests that these projects will be funded out of lease-revenue bond financing authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio).

Coordination Update. Last year the Legislature rejected funding for these dental facilities and added budget bill language to request that the department coordinate its dental facilities planning with the Receiver. Since then, a new Receiver has been appointed and additional details have come forth on the Receiver's facility plans. The Receiver is coordinating construction of 10,000 specialized-care beds at seven different institutions. Each of these centers will be constructed to comply with the *Perez* lawsuit. The Receiver is also planning to upgrade medical facilities at all 33 prisons. However, the Receiver is not planning to make the facility upgrades required by the *Perez* lawsuit at each of the 33 prisons. The department indicates that it is pursuing this upgrade project and will be funding this project with the AB 900 allocation of lease-revenue bonds for medical and mental health beds.

San Quentin Condemned Inmate Complex

Background. The 2003-04 Budget Act authorized $220 million in lease-revenue bonds for the design and construction of a new Condemned Inmate Complex for condemned male inmates at California State Prison, San Quentin. The original project was designed to provide 1,408 beds which were projected to meet the department's condemned inmate population needs through 2037.

However, because of increased costs related to this project, cost containment measures were taken in September 2005 to: (1) eliminate one housing unit, thereby reducing the number of beds by 18 percent; and (2) change the project scope for warehouse and maintenance support space from the construction of freestanding buildings to the conversion of existing dormitory buildings. Even with these cost containment measures, it was recognized that the project had a 6 percent budget deficiency in September 2005. The preliminary plans for this project were approved by the Public Works Board in November 2005.

There are currently 669 condemned inmates at San Quentin. The capacity of the current condemned housing is 634 beds. The new Condemned Inmate Complex would provide 1,152 beds.

Governor's Budget. The Governor's budget proposal includes $136 million in lease-revenue bonds to address additional funding needed to complete construction of the Condemned Inmate Complex at California State Prison, San Quentin.

The total estimated project cost to construct the condemned inmate complex is $356 million or $309,000 per bed.

LAO Finds Project Costs High. The LAO finds that the costs for this project will be nearly triple the costs of comparable housing units constructed at Kern Valley State Prison in 2005. The LAO finds that even after adjusting for higher labor and material costs there are considerable unexplained costs. The LAO notes that other special factors, such as the multi-level design of the project and soil instability may also be contributing to the increased costs. Nevertheless, even after adjusting for these factors, the LAO cannot account for the increased costs.

Environmental Impact Report Caps Population at San Quentin. The department had indicated to the LAO last year that, as part of the Environmental Impact Report that was developed for the Condemned Inmate Complex, the state had agreed to a population cap of 6,558 on the number of inmates that could be housed at San Quentin. The LAO finds that this limit may prevent the department from using all of the cells being vacated with the relocation of the condemned inmate population to a new Condemned Inmate Complex. The LAO estimates that with the new Condemned Inmate Complex San Quentin has a maximum potential capacity of 7,100 inmates.

LAO Recommendation. In the past, the LAO has recommended canceling the Condemned Inmate Complex project at San Quentin and use the remaining funding authorized to build additional prison capacity for condemned and maximum-security inmates at a lower cost per bed elsewhere. This could include: (1) building a new condemned inmate complex at an existing prison or at a new site, or (2) constructing new Level IV capacity and moving condemned inmates to Level IV housing at an existing prison. The LAO indicates that some states house condemned inmates with other Level IV population in a single facility and suggests that this could also be an option.

This year the LAO withholds recommendation on the project until questions about the costs of the project and the impacts of the possible inmate population limits are resolved. The LAO recommends that the department retain an independent outside expert to assess the department's cost estimates for this project. This is similar to the recommendation the LAO made with regard to the infill bed projects authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio).

The LAO also recommends that the department report on the following: (1) the maximum capacity of San Quentin now, including potential overcrowding of the facility; (2) the maximum potential capacity of San Quentin, including potential overcrowding of the facility, if the Condemned Inmate Complex is completed; (3) any specific limits on the inmate population at San Quentin to which the state has agreed as a result of the environmental review process for the Condemned Inmate Complex; (4) the department's rationale for building the Condemned Inmate Complex at San Quentin if in fact that means other existing space at the prison could not be used to hold inmates in the future.

Staff Comments. Staff finds that there was considerable debate regarding moving the Condemned Inmate Complex to an alternative site in 2003 when the project was authorized. A drawback that surfaced during this debate was that moving the condemned population to a remote prison facility would make it more difficult for specialized legal representation to have access to the condemned inmate population. State law allows for automatic appeals and habeas corpus appeals for all condemned inmates.

Furthermore, there would likely be local community opposition to moving the condemned inmate population to any other location in the state.

Staff finds that the Bureau of State Audits was directed in 2007 to conduct an audit of alternatives sites for the condemned inmate complex. This audit is expected to be completed by May 2008.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Tom Harman
Christine Kehoe

Monday, April 28, 2008
OUTCOMES

5525 California Department of Corrections and Rehabilitation

Rehabilitation Program Reform Efforts

1. AB 900 Implementation—Rehabilitation Programs

2. Expert Panel Report

3. Governor's Rehabilitation Strike Team

4. California Rehabilitation Oversight Board

Expanding Rehabilitation Programming

1. Programming Space—Informational Issue

2. Staff Vacancies—Informational Item

3. Organizational Change and Capacity

Action. Concur with the department's planned use of funds already appropriated in AB 900.

Vote. 2-0 (Kehoe Absent)

4. Substance Abuse Treatment Expansion—In Custody

Action. Concur with the proposed allocation of funding already appropriated for rehabilitation in AB 900.

Vote. 2-1 (Harman)

5. In-Custody Drug Treatment Program Beds—Parole Violators

Action. Held open pending information on the overall cost and savings of this proposal.

6. Expanded Services for Mentally Ill Parolees

Action.

- Concurred with the department's planned use of funds already appropriated in AB 900.
- Approved trailer bill language to clarify that these funds be used to support a continuum of services for mentally ill parolees as opposed to just day treatment.

Vote. 3-0

7. Using Assessments and Case Plans

Action. Concurred with the department's planned use of funds already appropriated in AB 900.

Vote. 3-0

8. Program Support Infrastructure

Action.

- Concurred with the department's planned use of funds already appropriated in AB 900 for the prison-to-employment office.
- Approved an augmentation of $2.9 million to support additional rehabilitation staff.

Vote. 3-0

9. Proof Project

Action.

- Concurred with the department's planned use of funds appropriated in AB 900.
- Approved supplemental report language to require an update on the implementation of the Proof Project by September 1, 2008 and March 1, 2009.

Vote. 3-0

10. Office of Research—AB 900 Implementation Support

Action.

- Approved this budget proposal.

Vote. 3-0

11. Rehabilitation Incentives

Action.

- The department was going to get back to the Subcommittee with information on what can be done to implement rehabilitation incentives administratively. This includes what they can do in terms of earned credits and what they can do to replace work-incentive program with a good-time incentive program system.

12. Education Information Technology

Action. Concurred with the department's planned use of funds already appropriated in AB 900.

Vote. 3-0

13. Community Work Crews

Action.

- Reject General Fund support for this activity and approve an increase in reimbursements.
- Request that staff work with the LAO, DOF and CDCR to work out details to make this arrangement more affordable for communities.

Vote. 3-0

Division of Juvenile Justice

1. Safety and Welfare Remedial Plan

Action. Approved the two *Farrell*-related budget proposals included in the Governor's budget.

Vote. 3-0

2. Education Remedial Plan—Informational Item

3. Mental Health Remedial Plan—Informational Item

4. Sex Behavior Treatment Remedial Plan—Informational Item

5. Health Care Remedial Plan—Informational Item

6. Wards with Disabilities Remedial Plan—Informational Item

7. DJJ Population Estimate

Action.

- Held this issue open.
- Requested staff, DOF, LAO and CDCR to determine what is needed (including budget bill language) to continue to make progress to improve the transparency of the DJJ population estimate.

8. *LH* Lawsuit Compliance—Juvenile Parolee Due Process

Action. Approved this budget proposal and the Finance Letter and requested that the issues raised by the LAO related to attorney representation for probable cause hearings are resolved.

Vote. 3-0

Farrell Related Capital Outlay

Action.

- Held this issue open pending receipt of the department's expenditure plans for the current year allocation.

Other Capital Outlay

Action. The Subcommittee denied without prejudice funding for all capital outlay projects in the remaining portion of the agenda pending resolution of the criteria that will be used to determine when a re-entry site is considered "conveyed" to the state and when the jail money will be released to the counties. These items will be rescheduled after there is a resolution on this matter.

Vote. 3-0

1. Statewide Project Planning

Action. Denied the following:

- Approve the $3 million for advanced planning and budget packages for future capital outlay projects and budget bill language to allow these funds to be used for developing AB 900-funded projects.

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

2. Solid Cell Fronts

Action. Denied funding to continue with these conversions.

3. Folsom State Prison – Officers and Guards Building

Action. Denied funding for this project.

4. Folsom State Prison – Renovate Electrical System

Action. Denied this request.

5. Minor Capital Outlay

Action. Denied this request.

6. California Rehabilitation Center – Replace Dorms

Action. Denied funding for this project.

7. Ironwood State Prison – Ventilation System

Action. Denied funding for this budget proposal.

8. California Men's Colony – Kitchen Replacement

Action. Denied this Finance Letter.

9. Waste Water Treatment Plant Upgrades

Action. Denied the following:

- Approve the budget proposals and Finance Letters proposals.
- Approve supplemental report language that directs the department to develop and put forward options for improving its water use efficiency as an addendum to its 2009 Master Plan.

10. Sierra Conservation Center - Water Supply Treatment Plant

Action. Denied this budget proposal.

Coleman Ordered Mental Health Capital Outlay

1. California Institution for Women

Action. Denied this project.

2. Salinas Valley State Prison

Action. Denied the budget proposals.

3. California State Prison, Sacramento

Action. Denied this budget proposal.

4. Small Management Yards

Action. Denied this budget proposal.

Perez Related Dental Care Capital Outlay

San Quentin Condemned Inmate Complex

Action. Denied this budget proposal.